

# **Bertrand Township**

**Berrien County, Michigan**

# **ZONING ORDINANCE**

**Adopted by the Township Board**

**Latest Revision: July 31, 2020**



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# CHAPTER 1

## TITLE AND PURPOSE

### SECTION 1.01 SHORT TITLE

This Ordinance shall be known as the "Bertrand Township Zoning Ordinance."

### SECTION 1.02 PURPOSE

The purpose of this Ordinance is to promote and safeguard the public health, safety, and general welfare of the people. The provisions are intended to, among other things:

- A. Encourage the use of lands, waters, air and other natural resources in accordance with their character and most suitable use;
- B. Limit the improper use of land, air and resources;
- C. Reduce hazards to life and property;
- D. Provide for orderly development;
- E. Avoid overcrowding of the population;
- F. Provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered;
- G. Lessen congestion on the public roads and streets;
- H. Protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses;
- I. Facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements;
- J. Conserve the expenditure of funds for public improvements and services to conform to the most advantageous uses of land, resources, and properties.

### SECTION 1.03 THE EFFECT OF ZONING

- A. For the purpose of this Ordinance, except as hereafter specifically provided, no lot, land or premises shall be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations for the Zoning District in which it is located; these limitations being the minimum legislation necessary to achieve the purposes of this Ordinance.
- B. In case any land, building, structure, or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, that use, erection, alteration, or occupation of land, building or structure shall be unlawful and shall be declared a nuisance and the use of land may be required to cease and buildings or structures may be required to be vacated, torn down, or abated by any legal means and any land, building, or structure shall not be used or occupied until brought into conformance with the regulations of the Zoning District and all other applicable zoning requirements.

**SECTION 1.04 LEGAL BASIS**

This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006.

## CHAPTER 2 DEFINITIONS

### SECTION 2.01 RULES APPLYING TO TEXT

- A. If the meaning of this Ordinance is unclear in a particular circumstance, then the body or person charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of the Ordinance or law.
- B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- C. All words and phrases shall be construed and understood according to the common preferred use of the language; but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.
- D. The particular shall control the general. For terms used in this Ordinance the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "truck stop," as used in this Ordinance, shall not be interpreted to be the same as a "vehicle service station" since each is listed as a separate and distinct use.
- E. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- F. A "building" or "structure" includes any part thereof.
- G. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
  - 4. A masculine term shall include the feminine version of the term, and vice versa.
- I. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- J. With the exception of this Chapter, the headings which title a Chapter, Section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.

- K. Whenever reference is made to a federal, state, county, or township ordinance, law or act, that ordinance, law or act is presumed to include any amendments.
- L. The listed terms and words are defined in this Chapter for the purpose of their use in this Ordinance. These definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

## SECTION 2.02 DEFINITIONS – A

### ACCESSORY DEFINITIONS

- A. Accessory Building or Structure: A structure, building or portion thereof, supplementary and/or subordinate to a principal building on the same lot occupied by or devoted exclusively to an accessory use. An accessory building or garage shall be considered part of the principal building if it is structurally and architecturally integrated into the principal building.
- B. Accessory Use: A use that is clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

### ADULT FOSTER CARE FACILITY/CONVALESCENT HOME DEFINITIONS

- A. Adult Foster Care Facility: A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), having as its principal function the receiving of adults for foster care. A facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.
- B. Adult Foster Care Family Home: A private residence in which the licensee is a member of the household and an occupant, providing foster care for up to six (6) adults and is a residential use that is not subject to Special Land Use permit, or procedures different from those required for other dwellings of similar density in the same Zoning District. no five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.
- C. Adult Foster Care Small Group Home: An adult foster care facility with the approved capacity of seven (7) to twelve (12) adults to be provided with foster care.
- D. Convalescent or Nursing Home: A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. The home shall conform to, and qualify for, license under applicable State law.
- E. State Licensed Residential Facility: A residential care facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, or Act 116 of 1973 of the Public Acts of Michigan, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

### AGRICULTURALLY RELATED PRODUCTS

Items offered for sale as an accessory use at a farm market, farm winery or agricultural tourism operation to attract customers and promote agricultural products and agricultural tourism. Such items include, but are not limited to, all agricultural and horticultural products (including value-added agricultural products), baked goods, ice cream and ice cream-based desserts and beverages, jams, honey, gift items, food stuffs, clothing, souvenirs and other items promoting the farm and agriculture in Michigan.

### AGRICULTURE DEFINITIONS

- A. Agriculture: The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.
- B. Agricultural service establishments in the AG District: These uses shall include, but need not be limited to, the following: Grain elevators for storage, drying and sales, bulk feed and fertilizer outlets and distribution centers, seed dealership outlets and distribution centers, grain and livestock, truck and cartage facilities, agricultural products, production and processing operation, auctions for livestock, sawmill.
- C. Farm: Land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.
- D. Farm Operation: The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:
1. Marketing produce at roadside stands or farm markets.
  2. The generation of noise, odors, dust, fumes, and other associated conditions.
  3. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being Sections 257.1 to 257.923 of the Michigan Compiled Laws, as amended.
  4. Field preparation and ground and aerial seeding and spraying.
  5. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
  6. Use of alternative pest management techniques.
  7. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
  8. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
  9. The conversion from a farm operation activity to other farm operation activities.
  10. The employment and use of farm labor.
- E. Migrant Agricultural Labor Housing: A tract of land and all buildings and other structures pertaining thereto which is established, occupied or used as living quarters for migratory workers engaged in agricultural activities including related food processing as licensed under the provisions of Michigan PA 368 of 1978.
- F. Roadside Stand: A farm building or separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

#### ALTERATIONS/IMPROVEMENT DEFINITIONS

- A. Alterations: Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."
- B. Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, before

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, "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 which are solely necessary to assure safe living conditions.

## ANIMALS

- A. Animal, Domestic means an animal commonly domesticated as a companion or pet and kept in a home or yard. Examples include dogs, cats, birds, fish, rabbits, small rodents and similar animals, and are not used for commercial purposes. Household or domesticated animals do not present an unusual risk to a person or property and are not considered farm or wild animals.
- B. Animal, Farm means an animal or fowl customarily raised on a farm such as equines, cattle, swine, sheep, goats, llamas, alpacas, poultry, waterfowl, rabbits, mink and exotic animals, such as emus, and ostriches.
- C. Animal, Wild means an animal not domesticated by humans or any animal which a person is prohibited from possessing by local, state or federal law.

## ARCHITECTURAL FEATURES

Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

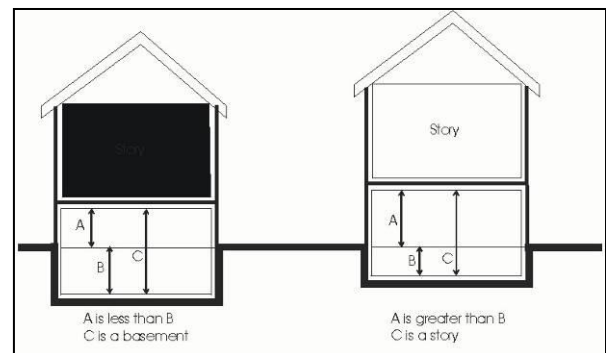
## SECTION 2.03 DEFINITIONS – B

### BARN WEDDINGS AND RECEPTIONS

A barn that is accessory to, and use that is clearly incidental to, a principal farm use, for conducting weddings and receptions.

### BASEMENT/STORY DEFINITIONS

- A. Basement or Cellar: A portion of a building having more than one-half ( $\frac{1}{2}$ ) of its height below grade. (See Figure 1)
- B. Half Story: That part of a building between a pitched roof and the uppermost full story, the part having a floor area which does not exceed one-half ( $\frac{1}{2}$ ) the floor area of a full story, provided the area contains at least two hundred (200) square feet and a clear height of at least seven (7) feet, at its highest point.
- C. Story: That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over one-half ( $\frac{1}{2}$ ) of its height is above the level from which the height of the building is measured.



**Figure 1: Basement and Story**

## BED AND BREAKFAST ESTABLISHMENT

A use within a single-family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

## BUILDABLE AREA ENVELOP

The maximum three-dimensional volume on a lot within which a structure can be built, as permitted by applicable height and setback requirements.

## BUILDING AND STRUCTURE DEFINITIONS

- A. **Building:** An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the enclosure of persons, animals, or chattels, or carrying on business activities or other uses.
- B. **Building Footprint:** The ground area of a lot occupied within the exterior foundation walls of a principal building or accessory structure. Unenclosed and un-walled portions of a structure (such as deck, balcony, etc.) shall not be considered a part of the building footprint.
- C. **Building Height:** The building height measured from the grade to the average height between the eaves and ridge (mansard, gable, hip and gambrel roofs) and to the highest point of the roof for a flat roof. Where the terrain is sloping, the average grade is used for measurement.
- D. **Principal Building:** A building in which is conducted the principal use of the lot upon which it is situated.
- E. **Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

## BUILDING PERMITS

A building permit is the written authority as issued by the Building Inspector permitting the construction, moving, alteration or use of a building in conformity with the provisions of this Ordinance and the adopted Building Code.

## SECTION 2.04 DEFINITIONS – C

### CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

### CLUB

An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, hobbies, politics, or the like, but not operated for profit.

## CONDOMINIUM DEFINITIONS

- A. **Condominium Act:** Public Act 59 of the Michigan Public Acts of 1978.
- B. **Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.
- C. **Condominium Project:** A plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act.

## CONSERVATION EASEMENT

A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.

## COMMERCIAL STORAGE

A building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are not used on a daily basis.

## SECTION 2.05 DEFINITIONS – D

### DAY CARE DEFINITIONS

- A. Commercial Day Care Center: A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Childcare and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Day Care Center.
- B. Family Day Care: An occupied single-family residence in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.
- C. Group Day Care: An occupied single-family residence in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

### DEED RESTRICTION

A restriction on the use of a lot or parcel of land that is set forth in the property deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

### DOMESTIC ANIMALS

Animals kept as a companion or pet, and kept in a home or yard. Examples include dogs, cats, birds, fish, rabbits, small rodents and similar animals, provided they are not kept, bred or maintained for commercial purposes.

### DRIVE THROUGH FACILITY

Any commercial use that by the way of site layout or building design encourages or permits patrons to remain in their vehicle while receiving goods or services.

### DWELLING DEFINITIONS

- A. Dwelling, or Dwelling Unit: A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile



chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit and shall comply with the provisions relative to dwellings.

- B. Multiple Family Dwelling: A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building.
- C. Single-family (Detached) Dwelling: A detached building used or designed for use exclusively by one (1) family.
- D. Two Family Dwelling: A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in that building. It may also be termed a duplex.

## SECTION 2.06 DEFINITIONS – E

### ENGINEER

The person or firm designated by the Township Board as the Engineer for the Township.

### ERECTED

The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

### ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by those public utilities or municipal departments or commissions, or for the public health or general welfare, but not including cellular telephone or communications towers, or buildings other than those buildings that are primarily enclosures or shelters of the above essential service equipment.

### EXCAVATING

Excavating shall be the removal of soil below the average grade of the surrounding land and/or road grade, whichever shall be highest, except common household gardening.

## SECTION 2.07 DEFINITIONS – F

### FAMILY

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit.

- C. This definition shall not include any society, club, fraternity, sorority, association, halfway house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

**FARM WINERY**

A winery operated on the same farm at which the grapes or other produce used for making wine or wine-related products are grown or produced.

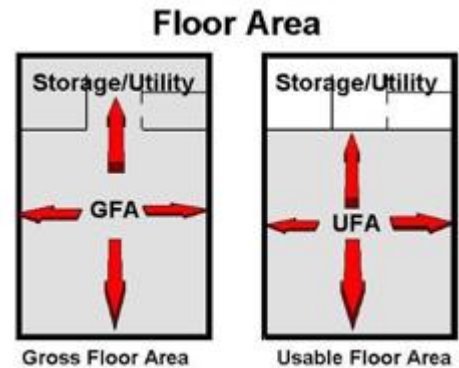
**FENCE**

Any permanent fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure that would require a building permit.

**FLOOR AREA DEFINITIONS (See Figure 2)**

**A. Floor Area (GFA):**

- 1. The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade. (See Basement/Story Definitions.)
- 2. Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements (except as provided above), breezeways, porches, or attached garages are not included.



**Figure 2: Floor Area**

- B. Usable Floor Area (UFA): That area used for or intended to be used for the sale of merchandise or services, or used to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

**FRONTAGE**

The horizontal distance between the side lot lines measured at the street right-of-way or easement line.

**SECTION 2.08 DEFINITIONS – G**

**GRADE DEFINITIONS**

- A. Grade: The ground elevation established for the purpose of regulating the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. (Grade shall also mean average grade, as defined herein.)
- B. Grade, Average, means the arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

- C. Grade, Finished, means the lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.
- D. Grade, Natural means the elevation of the ground surface in its natural state, before man-made alterations.

#### GUEST HOUSE

A structure that is accessory to a single-family residence, which is used for guest accommodations.

### SECTION 2.09 DEFINITIONS – H

#### HOME BUSINESS DEFINITIONS

- A. Home-Based Business: A business operated at a dwelling that because of its nature, intensity, scope, characteristics, activities and equipment, is not customary for a residential property. A home-based business is operated by the occupants of the dwelling and is clearly an incidental and secondary use of the property.
- B. Home Occupation: An occupation customarily conducted within a dwelling or accessory building by its occupants as a subordinate use. Without limiting the foregoing, a single-family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

#### HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

#### HOTEL/MOTEL

- A. Hotel: A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals. A hotel contains a central interior lobby, and shall include accessory uses, including, but not limited to gift shops, restaurants, and other similar uses primarily oriented to the customers of the hotel.
- B. Motel: A series of attached, semi-attached, or detached rental units providing overnight lodging for transients, open to the traveling public for compensation. A motel shall not include accessory uses, such as gift shops, restaurants, and other similar uses.

### SECTION 2.10 DEFINITION – I (RESERVED FOR FUTURE USE)

### SECTION 2.11 DEFINITIONS – J

#### JUNK

For the purpose of this Ordinance, this term shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

#### JUNK YARD

The term "junk yard" includes vehicle wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk,

including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

## SECTION 2.12 DEFINITIONS – K

### KENNEL

Any lot or premises on which four (4) or more animals, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or for sale.

## SECTION 2.13 DEFINITIONS - L

### LANDFILL

Land waste disposal site in which waste is generally spread in thin layers, compacted, and covered with a layer of soil.

### LOADING SPACE

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT DEFINITIONS (see Figures 3 and 4).

- A. Corner Lot: A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less
- B. Double Frontage (Through) Lot: A lot other than a corner lot having frontage on two (2) more or less parallel streets.
- C. Interior Lot: A lot other than a corner or a double frontage lot with only one (1) lot line fronting on a street.

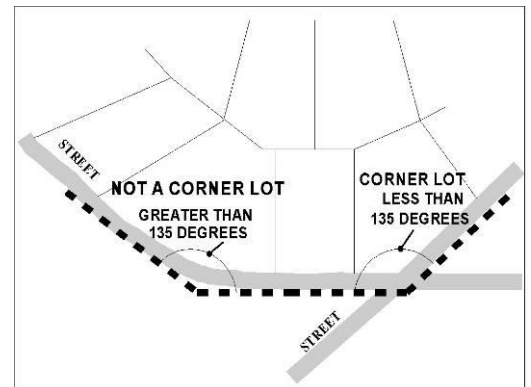


Figure 3: Corner Lots

- D. Lot: A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including a principal building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by the Condominium Act, designed and intended for separate or limited ownership and/or use.
- E. Lot Area: The total horizontal area within the lot lines of a lot excluding road right-of-way.
- F. Lot Coverage: The part or percent of the lot occupied by buildings or structures.
- G. Lot Depth: The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a double frontage lot.

- H. Lot Lines: The property lines bounding the lot.
- I. Front Lot Line. In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating the lot from a street right-of-way. In the case of a corner or double frontage lot, the shorter street line shall be considered the front lot line; except in the case of both street lines being equal, the choice may be made at the discretion of the property owner.

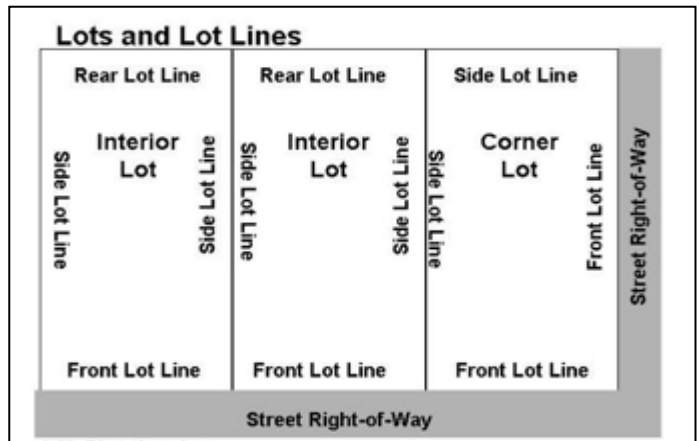


Figure 4: Lots and Lot Lines

However, once declared, the designated front lot line shall remain as such. In the case of a waterfront lot, the lot line separating the lot from the water shall be considered the front lot line.

- J. Rear Lot Line. Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.
- K. Side Lot Line. Any lot line that is not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- L. Lot of Record: A lot which lawfully exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lawful lot or parcel described by metes and bounds, the description of which has been so recorded as required by law.
- M. Lot Width: The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines at all points between the front building setback line and the rear building setback line.
- N. Waterfront Lot: A lot having frontage directly upon a lake, river or otherwise formed impoundments of water.

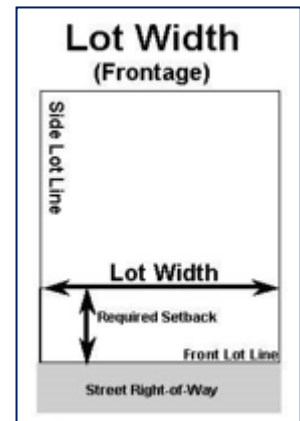


Figure 5: Width

**SECTION 2.14 DEFINITIONS – M**

**MANUFACTURED HOME DEFINITIONS**

- A. **Manufactured Home:** A factory-built, single-family structure that is manufactured under the National Manufactured Home Construction and Safety Standards Act. It is transportable in one or more sections, built on a permanent chassis or foundation and used as a dwelling. It is not constructed with a permanent hitch or other device allowing its transport, other than for its delivery to a permanent site and does not have wheels or axles permanently attached to its body or frame-
- B. **Manufactured Home Community:** A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual, non-recreational basis that is offered to the public for that purpose regardless of whether a charge is made therefore,

together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

- C. **Manufactured Home Space:** A plot of ground within a manufactured home community designed for the accommodation of one (1) manufactured home.

#### MASTER PLAN

The Master Plan currently adopted by Bertrand Township, including graphic and written materials, indicating the general location for streets, parks, public buildings, and all physical development of Bertrand Township, and includes any unit, part, or amendment to the Plan.

#### MICHIGAN ZONING ENABLING ACT

The Michigan Zoning Enabling Act, Public Act 110 of 2006 of the Public Acts of Michigan.

### SECTION 2.15 DEFINITIONS – N

#### NONCONFORMING DEFINITIONS

- A. **Nonconforming Building:** A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, that does not conform to the provisions of the Ordinance in the Zoning District in which it is located.
- B. **Nonconforming Lot of Record:** A lot, whether platted or unplatted, that conformed with all zoning lot requirements at the time of recording but which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; that has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance.
- C. **Nonconforming Use:** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use regulations of the Zoning District in which it is located.

### SECTION 2.16 DEFINITIONS – O

#### OPEN AIR BUSINESS

Uses operated for profit substantially in the open air, including, but not limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools, and similar activities.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

#### OPEN SPACE DEFINITIONS

- A. **Dedicated Open Space:** Common open space dedicated as a permanent recorded easement.
- B. **Open Space:** Land used for recreation, resource protection, amenity, and/or buffers, and not containing any principal building or structure.
- C. **Open Space Development:** A development which is permitted to have smaller lot sizes in return for protected open space. Known as Open Space Preservation Development.

- D. Usable Open Space: That portion of the common open space that meets the minimum dimensions as required by this Ordinance that due to its slope, drainage characteristics and soil conditions can be used for recreation.

## SECTION 2.17 DEFINITIONS – P

### PARCEL

A tract of land which can be legally described with certainty and is capable of being located by survey.

### PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises.

### PLANNED UNIT DEVELOPMENT

A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

### PLOT PLAN

A drawing required by the Zoning Ordinance to ensure that a proposed land use or activity is in compliance with the Ordinance. It is used to provide information for a zoning permit for things such as single-family home development, additions to homes, accessory buildings and fences. For the purposes of this Ordinance a plot plan and a site plan are not the same.

### PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

### PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

### PRINCIPAL USE

The primary purpose for which land or premises, or a building thereon, is designed, arranged, or intended, for which it is occupied, or maintained, let, or leased.

### PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, or water services, not including wireless telecommunications providers or wind energy conversion facilities.

## SECTION 2.18 DEFINITIONS – R

### RECREATION VEHICLE OR EQUIPMENT DEFINITIONS

- A. Recreation Vehicle or Equipment: A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. These vehicles shall include boats, airplanes, special purpose



vehicles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

- B. Motor Home: A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreational use. This term does not include manufactured homes.

## SECTION 2.19 DEFINITIONS – S

### SATELLITE DISH ANTENNA, OR DISH ANTENNA

An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

### SENIOR HOUSING

A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

### SETBACK DEFINITIONS (see Figure 6)

- A. Front Building Setback Line: The line marking the setback distance from the front lot line which establishes the minimum front setback.
- B. Rear Building Setback Line: The line marking the setback distance from the rear lot line which establishes the minimum rear setback.
- C. Setback: The distance required to comply with front, side or rear yard open space provisions of this Ordinance.
- D. Setback Lines: Lines marking the setback distance from the lot lines which establish the minimum permitted front, side, or rear yards.
- E. Side Setback Lines. Lines marking the setback distance from the side lot lines which establish the minimum side setback.

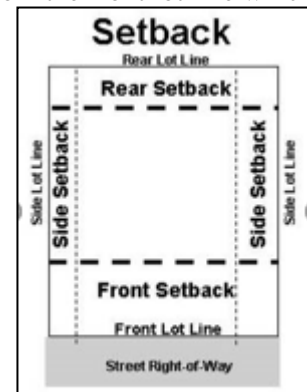


Figure 6: Setback Lines

### SEXUALLY ORIENTED BUSINESS DEFINITIONS

Sexually Oriented Business: The term shall include adult bookstores, adult novelty store, adult video store, adult cabarets, adult motion picture theaters, massage establishments, and nude artist and photography studios. These terms shall have the following indicated meanings:

- A. Adult Bookstore, adult novelty store or adult video store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals, videotapes, movies, or adult-related novelties which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, or an establishment with a segment or section devoted to the sale or display of this material.
- B. Adult Cabaret: An adult cabaret means a nightclub, restaurant, or other similar commercial establishment which regularly features or displays:
1. Persons who appear in a state of nudity; or



2. Live performances predominantly distinguished or characterized by an emphasis on the exposure of any specified anatomical areas or specified sexual activities; or
  3. Films, motion pictures, video cassettes, videotapes, any material in digital format (including, but not limited to compact discs (CDs) or digital video discs (DVDs)), slides, other photographic reproductions or visual media which are predominantly distinguished or characterized by an emphasis on the depiction or description of a specified anatomical areas or specified sexual activities.
- D. Adult Motion Picture Theater. An establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.
- E. Massage Establishment: Any establishment having a fixed place of business where massages are administered by pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, osteopath, or physical therapist; or massage establishment with a therapist who is certified by the American Massage Therapy Association, American Medical Massage Therapy, National Certification Board of Therapeutic Massage and Bodywork and or a graduate of a Licensed School of massage therapy or duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. A Massage is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.
- F. Nude Artist and Photography Studio. Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee or charge.
- G. Specified Anatomical Areas: Specified anatomical areas are defined as less than completely and opaquely covered:
1. Human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- H. Specified Sexual Activities: Specified sexual activities are defined as:
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.

## SHORELINE

The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

## SIGN DEFINITIONS

- A. Area: The total square footage of a sign face exposed to public view.

- B. Awning Sign: A sign which is part of, hung from the underside of, or attached to, a marquee, canopy, or other covered structure projecting from and supported by a building and does not project horizontally beyond or vertically above the marquee, canopy, or covered structure.
- C. Banner: An unsecured sign made of natural, flexible, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.
- D. Billboard: A sign structure which exceeds one hundred (100) square feet.
- E. Directional Sign.
- F. Electronic Message Board: A sign on which copy changes automatically on a lamp bank or through mechanical means, e.g., electrical or electronic time and temperature units.
- G. Freestanding Sign: Any non-movable sign not affixed to a building.
- H. Height: The height of sign shall mean the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.
- I. Illuminated Sign: Any sign designed to give forth artificial light, or designed to reflect any light given from any source which is intended to cause light or reflection.
- J. Monument Sign: A freestanding sign affixed to the ground with a full footing where the display surface is less than four (4) feet above the grade to the bottom of the display area.
- K. Off-Premise Sign: A sign located on a different parcel of land or lot or premise.
- L. On-Premise Sign: A sign located on the parcel of land or lot.
- M. Pennant: A small, often triangular, tapering flag.
- N. Pole Sign: A freestanding sign which is supported by one (1) or more uprights in permanent footings with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign.
- O. Political Sign: Follow the regulations of temporary signs.
- P. Portable (Temporary): A sign which is not permanently affixed to a building (wall sign), structure (pole sign) or the ground (monument sign). Portable or temporary signs include without limitation signs supported on wooden posts, mobile chassis, motor vehicle, banners, flags, and pennants.
- Q. Residential Entranceway Sign: A permanent structure including but not limited to walls, columns and gates.
- R. Roof: A sign erected, constructed and maintained upon or above the roof, or parapet wall of a building which is wholly or partially supported by the building.
- S. Sign: Any individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained to the out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.
- T. Window: A sign that is applied or attached to the exterior or interior of a window or located in a building so that it can be seen from the exterior of the structure through a window.
- U. Wall: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign that does not project more than twelve (12) inches from the building or structure.

## SOLAR ENERGY

- A. Accessory Non-Commercial Building-Mounted Solar Energy System: A solar energy collector attached to the roof or wall of a building.

- B. Accessory Non-Commercial Ground-Mounted Solar Energy System: A solar energy collector that is mounted directly to a support structure on the ground and is not connected to a building. The system is intended to generate energy for the principal and accessory land uses and building on the lot or parcel of land on which the system is located.
- C. Commercial Solar Energy System: A utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Also known as a solar farm.
- D. Responsible Party: The party responsible for the construction, maintenance, and/or long-term operation of a commercial solar energy system. The responsible party may be the owner or lessee of the land on which the commercial solar energy system is established.
- E. Solar Energy Collector: A panel or series of panels, along with associated equipment, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal, or chemical energy.

#### STREET/ACCESS DEFINITIONS

- A. Alley: A public way which affords a secondary means of access to abutting property but not being intended for general traffic circulation.
- B. Major Road: Roads that gather traffic from local streets and/or move larger volumes of traffic through the township including any road considered a state highway or primary road.
- C. Private Driveway: An improved or unimproved path extending from a public right-of-way or private road easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.
- D. Private Street: A privately owned and maintained thoroughfare providing access to two (2) or more individual lots or parcels.
- E. Public Street: A thoroughfare including any easements or rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

### SECTION 2.20 DEFINITIONS – T

#### TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator in accordance with the requirements of this Ordinance during periods of construction of a principal building or for special events.

#### TOWNSHIP OFFICIALS

- A. Building Inspector: The person or agency appointed by the Township Board as the Building Inspector for the Township.
- B. Clerk: The Township Clerk of Bertrand Township.
- C. Planning Commission: The Bertrand Township Planning Commission.
- D. Township: Bertrand Township, Berrien County.
- E. Township Board: The Bertrand Township Board.
- F. Zoning Administrator: The person(s) designated by the Township Board to administer the provisions of this Zoning Ordinance.
- G. Zoning Board of Appeals, or Board: The Zoning Board of Appeals of Bertrand Township.

**SECTION 2.21 DEFINITIONS – U (RESERVED FOR FUTURE USE)****SECTION 2.22 DEFINITIONS – V****VARIANCE**

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulty owing to circumstances unique to the individual property.

**VEHICLE DEFINITIONS**

- A. Major Vehicle Repair: Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers; collision service, such as body, frame or fender straightening and repair; overall painting and vehicle rust-proofing; or steam cleaning.
- B. Minor Vehicle Repair: Any use whose primary activity involves minor repair and maintenance of passenger vehicles and light trucks and vans, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, and auto glass installation and repair, but not including fuel sales.
- C. Vehicle Service Station: A building or premises to be used for the retail sale of gasoline or other motor fuel for the propulsion of motor vehicles and accessory sales and installation of vehicle accessories, including, but not limited to, tires, batteries, oil, and similar products.
- D. Vehicle Wash Establishment: A building, or portion thereof, the primary purpose of which is washing motor vehicles.

**SECTION 2.23 DEFINITIONS – W**

**WATERFRONT LOT** (See Lot Definitions)

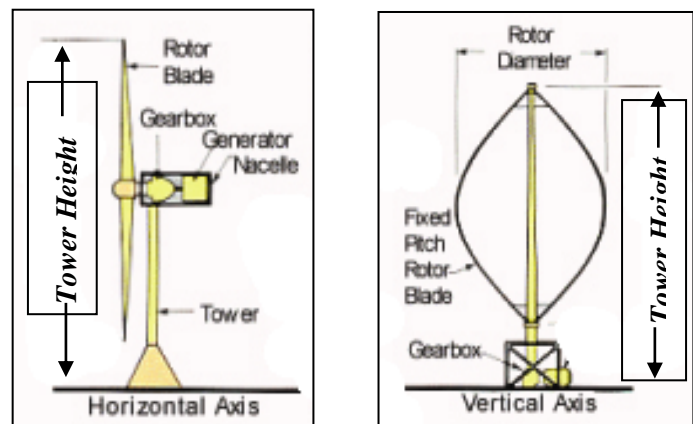
**WETLAND**

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

**WIND ENERGY CONVERSION SYSTEMS**

- A. Wind Energy Conversion System (WECS): Shall mean a combination of:
  - 1. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
  - 2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
  - 3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
  - 4. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
  - 5. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.

- B. Commercial WECS: Any WECS that is a Single WECS for Commercial Purposes, any WECS within a wind farm, or any other WECS meant to provide power which is utilized off the site on which the WECS is located.
- C. Interconnected WECS: A WECS that is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.
- D. On-site Service WECS: A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.
- E. Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a WECS casting shadows on the ground and stationary objects such as dwellings.
- F. Single WECS for Commercial Purposes: A single WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
- G. WECS Testing Facility: A structure and equipment used to determine the potential for the placement of a WECS.
- H. WECS Tower Height (see Fig. 7)
1. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades;
  2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.
- I. Wind Farm: Clusters of two (2) or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located. The WECS facilities may or may not be owned by the owner of the property upon which the WECS is placed.



**Figure 7: WECS Height**

## WIRELESS TELECOMMUNICATION TOWER

A structure of lattice or monopole framework to which an antenna may be attached for the transmission and /or reception of radio, television, satellite or microwave signals that facilitates wireless communications including cellular, enhanced specialized mobile radio (ESMR), personal communication, or similar services, along with associated equipment necessary to operate these facilities.

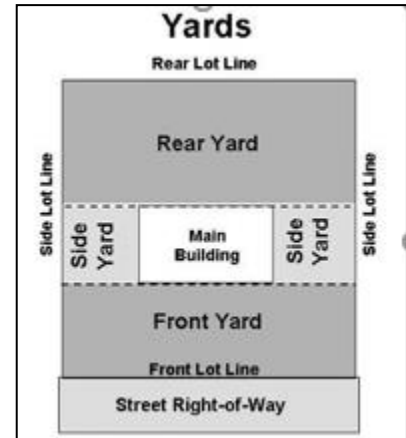
## WIRELESS COMMUNICATION ANTENNA

The device for transmitting and/or receiving radio, television, satellite, cellular, enhanced specialized mobile radio, personal communication, microwave, or similar transmissions.

**SECTION 2.24 DEFINITIONS – Y**

## YARD DEFINITIONS (see Figure 8)

- A. Front Yard: An open space extending the full width of the lot, from the front elevation of a principal building to the front lot lines.
- B. Rear Yard: An open area extending across the full width of the lot, from the rear elevation of a principal building to the rear lot lines.
- C. Side Yard: An open unoccupied area between a principal building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.
- D. Yard: An open space on the same land with a building or group of buildings, which lies between the building or group of buildings and the nearest lot line.

**Figure 8: Yards****SECTION 2.25 DEFINITIONS – Z**

## ZONING DISTRICT DEFINITIONS

- A. Non-Residential District: Non-Residential District shall refer to the C, C-2, C-3 and IND Zoning Districts, as described in this Ordinance.
- B. Residential District: Residential District shall refer to the AG, RR, R-1 and R-2 Zoning Districts, as described in this Ordinance.

## CHAPTER 3 GENERAL PROVISIONS

### SECTION 3.01 APPLICATION OF REGULATIONS

- A. Unless otherwise noted, the regulations in this Ordinance apply throughout Bertrand Township and within each District. They shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.
- B. All buildings, structures or land may be used, constructed, altered or occupied, only when in conformity with all of the regulations specified in this Ordinance for the District in which it is located in accordance with this Ordinance.
- C. Except as otherwise permitted by this Ordinance, after the effective date of this Ordinance, no building or other structure shall be altered:
  - 1. To accommodate or house a greater number of families than permitted by the Zoning District.
  - 2. To have narrower or smaller rear yards, front yards, or side yards, other than permitted.
- D. No yard or lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

### SECTION 3.02 CLEARING OF LAND

Unless associated with a bona fide forestry, agricultural practice or public works project ( such as the installation of utilities or other similar activities conducted by, or on behalf of the state, federal government, county or the Township), it shall be unlawful for any person to engage in land clearing of over one (1) acre, including the stripping and removal of topsoil or existing vegetation, from any site, parcel, or lot within Bertrand Township without first receiving appropriate development approval.

### SECTION 3.03 EXCAVATIONS

No soil, sand, gravel, or other earth material shall be removed from any land within Bertrand Township without Special Land Use approval for earth removal per Section 11.04 I, with the following exceptions:

- A. When the earth removal is incidental to an operation for which a building permit has been issued by the designated public official;
- B. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
- C. When the earth removal involves less than five hundred (500) cubic yards;
- D. The earth removal will not alter predominate drainage patterns or cause drainage effects to adjoining properties;
- E. The soil removal will not be in violation of any other Section of this Ordinance, other Township ordinance, Natural Resource and Environmental Protection Act of 1994 or any other applicable state or federal law.
- F. When the excavation activity is part of a bona fide agricultural operation or when materials are not sold or taken off site.

### SECTION 3.04 PRINCIPAL USE COLLECTIVELY

Except as may otherwise be noted in this Ordinance, each parcel shall contain only one (1) principal building or principal use, except for groups of related agricultural, commercial, industrial, and office buildings, and multiple family dwellings, contained within a single, integrated complex as demonstrated by sharing parking, signs, access, and other similar features which, in the opinion of the Zoning Administrator, form a unified function and appearance. Shall be of single ownership. The Individual activities shall support one another (such as auto dealership/vehicle repair or a convenience store/restaurant/gas station). The building shall be architecturally consistent and compatible.

### SECTION 3.05 LOT LINES

- A. On lots with existing structures, the “principal” front lot line shall be the location of the traditional front entrance of the structure and the rear lot line opposite.
- B. For undeveloped lots or lots to be redeveloped, the narrower front lot line shall be the “principal” front lot line and the rear line opposite.
- C. Where the lot lines are of equal length, and/or the principal front lot line is not evident, the Zoning Administrator shall determine the principal front lot line.

### SECTION 3.06 CLEAR VISION

- A. No plantings, fencing, signs or other obscuring structures or elements shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. This unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended (see Figure 9).
- B. This Section shall not prohibit the placement of shrubbery or other materials less than thirty (30) inches in height at maturity.
- C. No vegetation shall be maintained in any setback area of any District, which, in the opinion of the Zoning Administrator, will obstruct the view from vehicles entering or leaving the site from driveways or adjacent roadways.

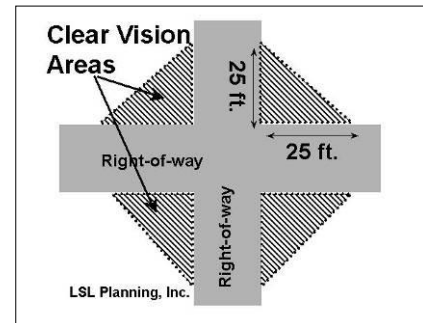


Figure 9: Clear Vision

### SECTION 3.07 SETBACK MEASUREMENTS, YARDS, LOTS & PARCELS

- A. Interior lots shall have one (1) front yard, two (2) side yards, and one (1) rear yard.
- B. Corner lots shall have one (1) front yard, one (2) side yards, and one (1) rear yard.
- C. Through lots shall have two (2) front yards and two (2) side yards.
- D. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat in the request for zoning permit. If there are existing structures in the same block fronting on one (1) or both of the street, the required front yard setback shall be observed on those streets where the structures presently front.
- E. Cul-De-Sac Lots. The front yard setback shall follow the curve of the front lot line.
- F. The front setback line shall be measured from the right-of-way line or easement line abutting a street, to the front foundation line of the building.



- G. On waterfront lots, the front yard shall be considered as the portion of the lot facing the waterfront. A waterfront lot is not a through lot.
- H. Side setbacks shall be measured from the property line to the foundation line of the building.
- I. Projections into Setback Areas.
  - 1. Architectural Features. Certain architectural features, such as cornices, bay windows, windows without foundations, window wells, gutters, chimneys, pilasters, and other elements determined by the Zoning Administrator to be similar, may project no further than three (3) feet into a front or rear setback area.
- J. Covered and Enclosed Additions.
  - 1. Any permanently constructed porch, patio, carport, terrace, addition, deck, or balcony that is covered by a roof or trellis, or enclosed by a barrier, wall or screen, shall meet the minimum setback requirements of the principal building or accessory building to which it is attached. Any other similar covering or enclosing structural element shall be subject to the same requirement.
- K. Open and Uncovered Elements.
  - 1. An open, uncovered, and unenclosed porch or paved terrace and other structural elements determined by the Zoning Administrator to be similar, may project into a required setback no more than 10 feet.
- L. Nonconforming Lots and Parcels.
  - 1. Buildings may be permitted on nonconforming lots and parcels as long as the building can comply with required setbacks.
  - 2. A nonconforming lot or parcel without frontage on a public street or approved private street shall not be occupied except where access to a street is provided by a public or private easement or other right-of-way no less than 20 feet in width.

### **SECTION 3.08 WIDTH TO DEPTH RATIO**

- A. No lot shall be created with a lot depth that exceeds four (4) times its width.
- B. Any lot created after the effective date of this Ordinance shall front upon and have its minimum width upon a public street, or private street easement.

### **SECTION 3.09 HEIGHT EXCEPTIONS**

The height limitations contained in this Ordinance do not apply to agricultural buildings on farms (barns, grain bins, silos, elevators, etc.) spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, mechanical equipment, scenery lofts, parapet walls up to four (4) feet or other similar appurtenances not intended for human occupancy and usually required to be placed above the roof level.

### **SECTION 3.10 ACCESSORY BUILDINGS AND STRUCTURES**

- A. Accessory buildings and structures that are structurally and architecturally integrated into the principal building shall conform to the lot, yard and building requirements of the principal building.
- B. Unless associated with a bona-fide agricultural operation, detached accessory buildings shall only be permitted on any lot which contains a principal building.

C. Location and Setbacks:

1. Detached accessory buildings shall be a minimum of ten (10) feet from any other building or structure.
2. Detached accessory buildings over 200 square feet shall have a setback of twenty (20) feet from the side and rear property line. Detached accessory buildings 200 square feet and under shall be set back five (5) feet from any property line.
3. Detached accessory building(s) shall not be erected in any area forward of a principal building, unless said accessory building is located 200 feet from front lot line.
4. A detached accessory building shall not occupy any portion of a required greenbelt or buffer.

Lot Size	Maximum Size	Height
Less than two (2) acres	1800 square feet	18 feet
Two (2) acres but less than five (5) acres	3000 square feet	24 feet
Five (5) acres but less than ten (10) acres	5000 square feet	35 feet
Ten (10 acres or more	7000 square feet	35 feet

D. Use of Detached Accessory Buildings:

1. No detached accessory building shall be used in any part for residential dwelling or sleeping purposes, unless a SLU has been obtained for a Guest House.
2. Manufactured homes, semi-trailers or other vehicles shall not be used as accessory storage structures.
3. After the construction of a detached accessory building any division of land shall ensure that the building meets all requirements of this Ordinance.
4. A building permit shall be secured prior to the placement of any permanent detached accessory building.

**SECTION 3.11 SATELLITE DISH ANTENNAS**

Zoning regulations shall not apply to dish antennas that are one (1) meter or three (3) feet or less in diameter in Residential Districts or two (2) meters or six (6) feet or less in diameter in Nonresidential Districts.

**SECTION 3.12 PRIVATE SWIMMING POOLS**

- A. Any private swimming pool over (24) inches deep and with a surface area of more than two hundred and fifty (250) square feet shall not be constructed, installed, enlarged or altered until a building permit has been obtained and shall comply with the requirements of this Section.
- B. The outside edge of the pool wall and/or the deck and any other appurtenances shall not be located closer than ten (10) feet from any rear or side property line. Swimming pools shall not be located in the front yard.
- C. All above and below ground swimming pools to be protected with a fence (barrier) which meets the minimum requirements of the State Construction Code.
- D. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

**SECTION 3.13 FENCES**

- A. Construction:
1. Fences shall be installed in a workmanlike manner and be maintained at all times in a state of good repair.
  2. Fences may be erected on the owner's side of the property line.
- B. Fence Height:
1. Unless specifically provided for elsewhere in this Ordinance, no fence within the front yard setback may exceed a height of four (4) feet for chain-link, wrought iron, or picket fences. No opaque or substantially solid fence shall be permitted within the front yard setback.
  2. Fences behind the front yard setback shall not be higher than six (6) feet in Residential Districts or eight (8) feet in Agriculture and Nonresidential Districts.
- C. Prohibitions:
1. It shall be unlawful to construct any fence in any public right-of-way or across a utility easement.
  2. Electric and barb wire fences are permitted when used on a bona fide farm.
  3. Razor wire is restricted to rear yards of industrial properties.
  4. No fence shall be erected or maintained on any corner lot or parcel that will, in the opinion of the Zoning Administrator, obstruct the view of a vehicle drive approaching the intersection.

**SECTION 3.14 REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS**

- A. It is the intent of this Section to establish minimum standards of appearance and construction for all single-family dwellings, whether constructed on a lot or a manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if it complies with this Section. These standards shall not apply to a manufactured home located in a manufactured home community licensed by the Michigan Manufactured Home Commission and approved by the Township according to the provisions contained in Chapter 11 R, of this Ordinance except to the extent required by state or federal law.
1. If the dwelling unit is a manufactured home: The manufactured home must have completed inspection reports that are traceable to the unit number (serial number) of the home meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, or any similar successor or replacement standards which may be promulgated; or Found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy. The manufactured home shall be installed with the wheels and towing mechanism removed.
  2. Units shall have a minimum core requirement width of 20-foot by 20-foot.
  3. All units shall have, at a minimum a four (4) foot crawl space under the entire unit. At a minimum, commercial grade skirting shall be used.
- B. Construction:
1. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire energy and other similar codes which are or may be adopted by the Township, and with applicable federal or state standards or regulations for construction.

2. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the adopted building code. The dwelling unit may have skirting provided it is aesthetically compatible with the structure.
3. Any crawlspace that may exist between the foundation and ground floor of the dwelling unit shall be fully enclosed by an extension of the foundation wall along the perimeter of the building.
4. Roof drainage in the form of a roof overhang of at least twelve (12) inches shall be provided to direct storm or melt water away from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.
5. The dwelling unit shall be connected to public sewer and water supply systems or to private facilities for potable water and disposal of sewage approved by the Berrien County Health Department.
6. The dwelling unit shall contain no additions of rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
7. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty (20) feet at time of manufacture, placement or construction.
8. Storage areas with an area of no less than one hundred and twenty (120) square feet shall be provided within a building. The storage area may consist of a basement, closet area or attached garage in a principal building, or in a detached accessory building which is in compliance with all other applicable provisions of Section 3.10.
9. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the District in which it is located.
10. These standards shall not be construed to prohibit innovative design concepts involving such matters such as (but not limited to) solar energy, view, or unique land contour.

### **SECTION 3.15 TEMPORARY USES OR BUILDINGS**

- A. Upon application, and as noted below, the Zoning Administrator may issue a permit for temporary buildings or uses permitted by this Section. Each permit shall specify a location for the building or use and shall be valid for a period of not more than twelve (12) calendar months.
- B. Permits may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose, provided that the reason for the extension is due to circumstances beyond the immediate control of the applicant.
- C. Temporary Uses Permitted:
  1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
  2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, the temporary office or model home shall be removed when fifty percent (50%) or more of the lots or units have been sold or leased.
  3. Manufactured home used for a temporary dwelling while a new dwelling is under construction. The dwelling shall meet all requirements of this Ordinance.

- D. In considering authorization for all temporary uses or buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary uses or structures to ensure that the standards and requirements of this Section are met.
1. The use or structure will not have an unreasonable detrimental effect upon adjacent properties;
  2. The use or structure is reasonably necessary for the convenience and safety of the construction proposed;
  3. The use or structure does not adversely impact the character of the surrounding neighborhood; and
  4. Access to the use area or structure is located at a safe location.
  5. Compliance with all applicable Health Department regulations and general health conditions is required
- E. The Zoning Administrator may, at his discretion, submit a request for a temporary use or building to the Planning Commission for a final decision. In making its decision, the Planning Commission shall consider the same standards as in D, above.
- F. A performance guarantee may be required to insure compliance with the terms of the temporary use permit and shall comply with Section 15.09 Performance Guarantees, Bertrand Township Ordinance Book.

### **SECTION 3.16 ILLEGAL DWELLINGS**

- A. Using any basement for dwelling purposes is prohibited in any Zoning District unless the basement meets the appropriate adopted building codes for the Township. Buildings erected as garages or accessory buildings shall not be used as dwellings.
- B. The owner or renter of any premises occupied by a dwelling may permit the parking of an occupied recreational vehicle (RV) of a guest or visitor on the premises for a period not exceeding a total of fifteen (15) days in the calendar year, provided the serial number and license number of the RV and the name of the owner thereof are recorded with the Township Clerk, and provided that the occupants of the RV shall have unrestricted use of the sewage and water supply facilities of the dwelling.

### **SECTION 3.17 DAMAGED BUILDINGS**

Defined in the most recent version of the International Property Maintenance Code.

### **SECTION 3.18 DEMOLITION PERMITS**

No buildings shall be razed until a demolition permit has been obtained from the Building Inspector who may require a plot plan and performance bond, in accordance to Section 15.09 Performance Guarantees. This bond shall be conditioned on the applicant completing the razing within a reasonable period as prescribed in the permit and complying with any requirements of the Building Code.

### **SECTION 3.19 ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any District. The intent of this Section is to exempt actions regarding essential services from the application of this Ordinance.

**SECTION 3.20 STORAGE AND REPAIR OF VEHICLES**

The carrying out or repair, storage, restoration and maintenance procedures or projects on personal vehicles is permitted in any District provided that procedures or projects which require the vehicle to be immobile or inoperable in excess of thirty (30) days within any twelve (12) month period shall be carried out either in the rear yard or within an enclosed building. Vehicles in long term storage shall be stored to prevent oil, gas, antifreeze and battery acid from being released into the environment.

**SECTION 3.21 ACCUMULATION OF WASTE**

Defined in the most recent version of the International Property Maintenance Code.

**SECTION 3.22 KEEPING OF ANIMALS**

A. General Requirements

1. No more than a combined total of six (6) adult cats or dogs six (6) months of age or older shall be kept or housed in a dwelling unit.
2. Animals kept for livestock must be completely enclosed in a fenced area that is of suitable height and construction to contain the animals, subject to the regulations of Section 3.13.
3. All waste, including manure, shall be managed so there are no unsanitary or unsafe conditions.
4. Any proposed shelter shown on the site must be at minimum a rigid structure, designed to withstand normal wind and snow loads. Accessory buildings shall meet all applicable building codes.

B. Animal Units:

1. There shall be a limit on the keeping and raising of domestic animals in the Agricultural and Single-family Residential Districts according to the number of animal units that may be kept on a single parcel or lot or upon contiguous parcels under the same ownership. For the purposes of this Section, animal units shall be determined by the following table:

<b>Animal Units</b>		
<b>Animal</b>	<b>Animal Unit Equivalent</b>	<b>No. of Animals Per Animal Unit</b>
Slaughter or Feeder Cattle/Buffalo	1	1
Horses	1	1
Horses (small pony or miniature; 34" or less at withers)	0.2	5
Swine (over 55 lbs.)/Ostrich	0.4	2.5
Mature swine under 55 lbs.	0.1	10
Goat/Sheep/Llama/Alpaca	0.1	10
Turkeys	0.018	55
Laying hens and broilers	0.01	100
Rabbits	0.02	50
Other livestock	Average mature animal weight divided by 1,000	

2. Animals shall not be counted towards animal units until they are weaned.

C. AG District:

On parcel smaller than ten (10) acres in the AG District, the density of animal population shall be limited according to the Table of Standards for Keeping Livestock–Small Scale, below. On parcels ten (10) acres or greater, domestic animals may be kept and raised without restriction as

to the number of animal units; however, the requirements for Medium Scale Livestock Operations or Intensive Livestock Operations, as applicable, shall be met.

D. Small Scale Livestock Operations:

1. A small scale livestock operation shall be defined as ten (10) or less animal units on a property. Generally, a small scale operation shall be livestock kept for non-commercial (e.g. hobby, 4-H, etc.) purposes.
2. On property, at least two (2) acres in area within a Residential District, or on property at least two (2) acres but less than ten (10) acres in the AG District, the non-commercial keeping of private livestock shall be limited to the following maximum combined number of animal units, as follows:

Table of Standards for Keeping Livestock–Small-scale											
Minimum # of acres	2	3	4	5	6	7	8	9	10	11	12 or greater
Maximum Number of Animal Units Allowed	AG and RR Districts										
	2	2	3	4	5	6	7	8			
	Residential Districts (R-1 and R-2)										
	.5	1	2	3	4	5	6	7	8	9	10

3. Keeping livestock on parcels less than two (2) acres is prohibited.
4. Manure storage areas shall be a minimum of seventy-five (75) feet from any wellhead or dwelling and twenty-five (25) feet from all property lines.

E. Equine Facilities and Private Stables

1. A private stable shall not be located nearer than seventy-five (75) feet to any dwelling.
2. The facility shall be constructed and maintained such that odor, dust, noise, or drainage shall not be a nuisance or hazard to adjoining premises.

**SECTION 3.23 HOME OCCUPATIONS**

- A. Home occupations shall be operated with the approval of the Zoning Administrator who shall approve the application if all the provisions of this Section are met.
- B. No person other than the resident occupants and one (1) additional person who need not be a resident shall be engaged in the home occupation.
- C. The use of the dwelling unit or accessory building for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. If the home occupation is operated within the principal dwelling the area shall not exceed twenty five percent (25%) of the gross floor area of the dwelling unit.
- D. No change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation is allowed. One (1) sign as permitted on the same property as the home occupation outside of the street right-of-way (See Section 13.05 of this Ordinance).
- E. No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises.



- F. Any traffic generated by the home occupation shall not be so great as to cause adverse effects within or upon the surrounding neighborhood. Parking areas for a home occupation shall be located off street and other than in a required yard.
- G. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

### **SECTION 3.24 ROADSIDE STANDS**

- A. Roadside stands may be permitted in the AG, RR, R-1 and R-2 districts.
- B. Off-street parking shall be provided on the property and outside the public road right-of-way.
- C. One (1) on-site sign may be permitted of up to sixteen (16) square feet in area, located outside of the road right-of-way and adhering to clear vision requirements of Section 3.06, and have a height limit of eight (8) feet from the ground to the top of the sign.

### **SECTION 3.25 NONCONFORMITIES**

- A. General Requirements:
  - 1. Any lot, use of land or structure, or building which violated any provision of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land or structure, or building which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.
  - 2. An existing lot, use of land, or structure which does not fully comply with the provisions of this Ordinance but was lawfully established under a previous Zoning Ordinance, created, or commenced when no valid Zoning Ordinance was in effect, or was lawfully established under this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided it complies with this Section.
  - 3. A lawful use of land or structure which is under construction at the time of adoption of this Ordinance may continue establishment of a building or structure before the enactment of this Ordinance shall be allowed to continue being nonconforming, subject to the provisions of this Section.
- B. Nonconforming Uses:
  - 1. No part of any nonconforming use shall be moved unless the movement eliminates the nonconformity.
  - 2. If it is demonstrated for more than one (1) year that the property owner intended to abandon a nonconforming use, any subsequent use shall conform to the requirements of this Ordinance.
  - 3. An intent to abandon a nonconforming use shall be demonstrated if the Zoning Administrator finds that one (1) or more of the following conditions exists:
    - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
    - b. The property, buildings and grounds have fallen into disrepair.



- c. Signs or other indications of the existence of the nonconforming use have been removed.
  - d. Removal of equipment or fixtures that is necessary for the operation of the nonconforming use.
  - e. Other actions, which in the opinion of the Zoning Administrator constitute intent on the part of the property owner or lessee to abandon the nonconforming use.
4. A nonconforming use shall not be changed to another use that is also nonconforming unless it is more conforming than the previous use, as determined by the Zoning Administrator. Once a conforming use is established the prior nonconforming use may not be reestablished.
  5. The area occupied by a nonconforming use or the intensity of the use shall not be increased unless the proposed enlargement, increase in intensity, or greater area.
- C. Nonconforming Buildings and Structures
1. The expansion of a nonconforming structure shall be permitted provided that the addition complies with this Ordinance and does not increase the nonconformity. All efforts will be made to make the nonconforming building or structure conforming.
  2. In the event any nonconforming building or structure shall be damaged by fire, wind or an act of God or the public enemy, it may be rebuilt or restored, provided the building or structure is rebuilt within the same building footprint as the original building or structure, is not increased in size or height, and does not increase the nonconforming nature of the building or structure.
  3. If all or part of a nonconforming building or structure is moved it shall fully comply with the provisions of this Ordinance.
- D. Nonconforming Lots of Record
1. A nonconforming lot may be used for the purposes for which it is zoned, provided that:
    - a. If already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance.
    - b. Any principal building on the lot shall be located so that at least sixty-six percent (66%) of the setback requirements of the District in which the lot is located are met.
  2. Combination of Nonconforming Lots
    - a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
      - i. Are in common ownership.
      - ii. Are adjacent to each other or have continuous frontage.
      - iii. Individually do not meet the lot width or lot area requirements of this Ordinance.
    - b. Parcels meeting the provisions of subsection 2, a, above, shall be combined into a lot or lots complying as nearly as possible with the lot width and lot size requirements of this Ordinance.
    - c. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

**SECTION 3.26 PRIVATE STREETS**

- A. Purpose: The Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:
1. will not be detrimental to the public health, safety, or general welfare;
  2. will not adversely affect the long-term development policies of Bertrand Township;
  3. will be designed and constructed with width, surface, and grade to assure the safe and unimpeded route of travel of private vehicles, police, fire, ambulance, and other safety vehicles.
  4. will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township.
- B. Frontage and Access
1. Any three (3) or more contiguous lots not having frontage on a public street shall have frontage upon a private street.
  2. All parcels utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for the District in which the parcel is located.
  3. All private streets shall have direct access to a public street.
- C. Permits
1. No individual, association, corporation, or entity, either public or private, shall construct or extend a private street without first having obtained a private street permit from the Township Board.
  2. The Building Inspector shall not issue building permits for construction of any building or structure on lots served by a private street until construction of a private street meeting the requirements of this Section have been completed.
  3. A driveway permit for access to any public street shall be obtained from the Berrien County Road Department, Michigan Department of Transportation, or other approving authority, as required.
  4. A Soil Erosion and Sedimentation Control permit shall be obtained from the appropriate Berrien County administrative office, as may be required by Part 91 of the Natural Resources and Environmental Protection Act, Public Act 451 (1994), as amended.
  5. All other required State of Michigan permits shall be obtained.
  6. The Township Board may elect to have all design and construction plans reviewed by the Township's attorney, engineer, or planner prior to consideration of the application for the private street permit.
- D. Application. An application for a private street permit shall contain the following:
1. A completed private street permit application provided by the Township.
  2. A detailed written description of the development to be served by the private street.
  3. Ten (10) copies of a site plan, drawn to scale, prepared by a registered engineer, licensed surveyor, or other individual determined by the Township Board to be qualified, showing the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect. Proposed street names

shall also be provided, including a letter from the Berrien County Road Department approving the name(s).

4. A survey of the right-of-way by a registered land surveyor, together with lot dimensions and required setback lines for each parcel to be served by the private street.
5. The location of all public utility easements, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting easements shall be submitted with the application.
6. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one hundred (100) feet thereof.
7. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private street right-of-way.

E. Design Requirements

1. Construction specifications and materials for newly established or reconstructed private streets.
  - a. The specifications for surface and base materials, longitudinal grade, method of construction, and signs shall conform to the Road Department standards for local paved or gravel roads, as applicable.
  - b. Private streets shall have a minimum width of twenty (20) feet of traveled surface.
  - c. Private streets serving ten (10) or fewer parcels may be constructed as a gravel road.
  - d. Private streets serving more than ten (10) parcels shall be constructed as a paved road.
2. Length of private streets.
  - a. No private street shall extend for a distance of more than two thousand five hundred (2,500) feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street. Notwithstanding the above, however, a private street may exceed the above length if at least one (1) additional private street access complying with this Section is provided to a public street.
  - b. If no other public street access is provided, the maximum length of a proposed private street may be exceeded if the Township Board, after recommendation of the Planning Commission, finds that at least one (1) of the following conditions exists:
    - i. That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. The significant natural features shall be clearly identified and marked on the proposed private street plans.
    - ii. That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the Township Board prior to confirming this finding.
    - iii. That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Any access shall be reviewed by the Fire Chief and the recommendation forwarded to the Planning Commission and Township Board.

- c. The Township Board, upon a finding that at least one (1) of the above conditions exists, shall establish the maximum length of the proposed private street.
  3. Right-of-way/easement width.
    - a. All private streets constructed after the effective date of this Ordinance shall have a recorded permanent right-of-way and easement with a minimum width of at least sixty-six (66) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.
    - b. Private streets in existence as of the effective date of this Ordinance whose right-of-way or easement width is less than sixty-six (66) feet need not provide additional right-of-way or easement width, but the width shall not be subsequently reduced so as to increase its noncompliance with these requirements.
  4. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than one hundred and fifty (150) feet, as measured along the right-of-way line thereof.
  5. Existing private streets: A private street existing on the effective date of this Ordinance may continue in existence and be maintained and used, though it may not comply with the provisions of this Section. Any private street shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
  6. Addition of lots or parcels of land to existing private streets.
    - a. Any private street existing on the effective date of this Ordinance equal to or exceeding two thousand (2,000) feet in length to which one (1) or more additional lots or parcels are created or otherwise permitted access, the entire length of the existing private street shall be upgraded to comply with the applicable requirements of this subsection F.
    - b. Any private street existing on the effective date of this Ordinance which is less than two thousand (2,000) feet in length and to which one (1) or more additional lots or parcels are created or otherwise permitted access to the private street, then the entire length of the existing private street shall be constructed and maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, emergency vehicles in all weather conditions, subject to review and approval by the Zoning Administrator.
  7. Existing portion of extended private streets.
    - a. If a private street existing on the effective date of this Ordinance is extended by the construction and use of an additional length of private street equaling or exceeding five-hundred (500) feet, the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of subsection F.
    - b. Private streets in existence at the time of the effective date of this Ordinance that are subsequently extended for a distance of less than five hundred (500) feet shall be constructed in the same manner as the existing portion of the private street, provided that the entire private street shall be maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions, subject to review and approval by the Zoning Administrator.
- F. Review standards; modification of certain requirements.

1. Prior to approving a private street permit application, the Township Board shall determine the following:
  - a. The proposed private street will not be detrimental to the public health, safety, or general welfare.
  - b. The proposed private street will not adversely affect the use of land.
  - c. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
  - d. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township.
  - e. The construction of the private street will conform to the requirements of this Section.
2. The Township Board may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
3. Upon application, the Township Board may modify any of the private street requirements of this Section after finding that all of the following conditions exist:
  - a. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this Section without substantial alteration of such natural features. These natural features shall be clearly identified and described in the application of any such modification.
  - b. The justification of a modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit.
  - c. That no other reasonable private street design alternatives are available that would comply with the requirements of this Section.
  - d. That the request for modification was reviewed by the Township Engineer, Fire Chief or Township Planner, or any other person or official designated by the Township Board.

G. Maintenance and Repairs

1. Private streets shall be maintained in a manner that complies with the provisions of this Section.
2. All driveways and private streets shall be continuously maintained to not constitute a danger to the health, safety, and welfare of the inhabitants of the township and to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owner's association served by the private street.
4. Private street maintenance or restrictive covenant agreements.
  - a. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Township Board with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Township Board which shall provide for and assure that the private

street shall be regularly maintained, repaired, and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid.

- b. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that this agreement shall be recorded and shall run with the land. A copy of the agreement shall be furnished to the Township Board prior to the issuance of the permit.
- H. Performance Guarantee: The Township Board may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of the Michigan Zoning Enabling Act and Section 15.09 of this Ordinance.
- I. Inspections/Certificate of Compliance
1. Upon completion of construction of the private street, the Township shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance.
  2. The applicant(s), at the applicant(s)'s expense, shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the Road Department.
  3. If the completed private street does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall constitute a violation of this Ordinance.
- J. Fees for the permits required hereunder shall be set by the Township Board from time to time by resolution. Additionally, the Township Board may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.
- K. The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street that they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

### **SECTION 3.27 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon as allowed in the Zoning District provided the unit meets the Development Requirements for the Zoning District in which it is located.
- C. A site condominium unit shall be reviewed by the Planning Commission in accordance the Site Plan Review requirements of Chapter 12 Site Plan Review, including all the condominium documents.

**SECTION 3.28 RIPARIAN REQUIREMENTS**

- A. Riparian Access: The following restrictions are intended to limit the number of users of lake or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the township.
1. The restrictions of this Section shall apply to all lots and parcels on or abutting any lake, river, or stream in all Districts, regardless of whether access to the lake, river, or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.
  2. Existing Keyholes: Lots of record which existed prior to the effective date of this ordinance that provided common use access to a water body may continue to provide riparian rights subject to the marina operating permit requirements of the Michigan Department of Environmental Quality under Part 301 of Michigan Act 451 of 1994.
  3. Standards: Except as may be noted in this subsection, waterfront lots dedicated to common use conform in all respects to the minimum lot area and width requirements of the districts which they are located. In addition, common use riparian lots shall have the following minimum lot dimensions:
    - a. In all Districts, there shall be at least fifty (50) feet of lake, river or stream frontage, as measured along the ordinary high water mark of the lake, river, or stream, for each dwelling unit utilizing or accessing the lake, river, or stream frontage. For example, a multiple family building with four (4) dwelling units would require two hundred (200) feet of lake frontage to gain access to the lake for all of the units.
    - b. Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.
    - c. Such riparian lot or parcel shall have a minimum lot depth of one hundred (100) feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge.
- B. The deed to the riparian lot or parcel shall specify the non-riparian lots or parcels which shall have rights to its use.
- C. Private boat docks on waterfront lots shall comply with all applicable state and federal regulations and shall only be permitted subject to the following provisions:
1. One (1) private boat dock shall be permitted for each waterfront lot or parcel. For lots exceeding fifty (50) feet in width, one (1) additional boat dock shall be permitted for each full fifty (50) feet of lot width exceeding the first fifty (50) feet along the lake or other body of water.
  2. Dock design, including length, shall not interfere with navigation or other riparian rights of waterfront owners.
  3. Boat docks and boat slips, except as permitted in 4, below, shall be used only by persons residing on the premises or their guests, or by patrons of the premises, and shall not be leased, rented, or otherwise made available for compensation, unless approved as a marina, subject to the requirements of this Ordinance and other state and federal regulations.
  4. Such boat docks and slips may be permitted on any lot, regardless of whether a principal building or principal use exists on such lot.

5. A permit for dock(s) shall be reviewed and issued by the Zoning Administrator prior to construction. Fees for permits shall be as established by the Township Board.
6. All boat docks and slips are required to have prior approval from the Department of Environmental Quality (DEQ), Water Resources Division (WRD).

D. Native Protective Strip

1. A minimum strip twenty five (25) feet wide, bordering each bank of any watercourse, lake, or reservoir, as measured from the bank or high water line shall be maintained in its natural vegetative state, except for the permitted clearing of dead or noxious plants.
2. Within this strip, a space of no greater than ten (10) feet in width may be selectively trimmed and pruned to allow for the placement of walkways, and/or for a view of the waterway, with the approval of the Zoning Administrator. Any walkway constructed inside the strip shall be on the land side and may be oriented perpendicular or parallel to the water line. Because the intent of the native protective strip is water quality protection, porous materials such as wood chips or gravel shall be used.
3. The Zoning Administrator may allow limited clearing of the vegetative strip, only when required for construction of a permitted building or structure outside the vegetative strip, provided that the land cleared is returned to a vegetative state which is approximately the same quality or greater and extent as that which existed prior to the clearing.
4. Individual trees within the Native Protective Strip may be removed which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the watercourse, lake or reservoir.
5. The Native Protective Strip shall not be used for any motorized vehicular traffic, parking, or for storage of any kind, including junk, waste, or garbage, or for any other use not otherwise authorized by this Ordinance.
6. Shall follow all MDEQ, county and local regulations.

### **SECTION 3.29 USES NOT LISTED**

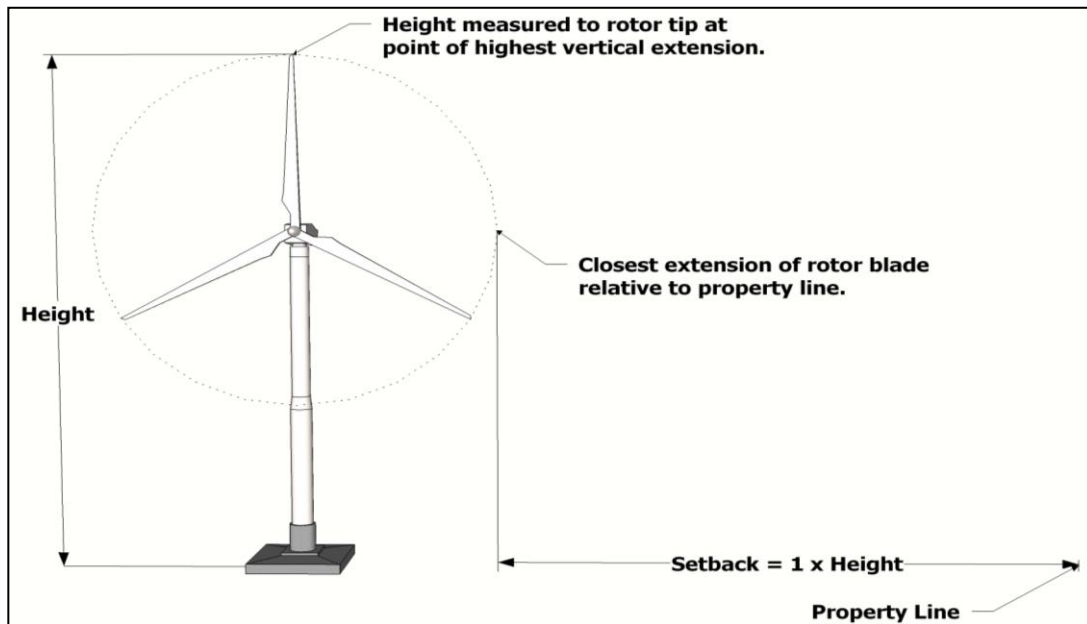
The Planning Commission shall determine if a use that is not specifically listed in the Table of Uses for the zoning district in which the use is proposed, and not listed in any other district, is similar to any of the uses already listed as a permitted or special land use. If so, the use may be permitted if determined to be similar to one of the permitted uses, or may be allowed after special land use approval if determined to be similar to one of the special land uses. Any use not determined to be similar to a listed use may only be considered if this Ordinance is amended, according to Chapter 15, to allow for that use.

### **SECTION 3.30 WIND ENERGY CONVERSION SYSTEMS**

- A. Purpose: This Section establishes requirements and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed within Bertrand Township.
- B. Review Requirements:
1. An On-Site Service WECS shall be allowed as an accessory use in any zoning district, subject to the requirements of this Section. On-site service WECS shall be subject to the general requirements of this Section as well as Site Plan Review, as required in Chapter 12.
  2. Commercial WECS and WECS Testing Facilities associated with a Commercial WECS are a special land use in the AG Agricultural District, the RR Rural Residential District and the



L Landfill District and are subject to the general requirements of this Section as well as the general standards for Special Land Uses in Chapter 11, Section 11.03 and the specific standards in Chapter 11, Section 11.04 II.



**Figure 10: Measuring WECS Height and Setback**

C. General Requirements for all WECS

1. WECS Height: The height of a WECS shall be the distance measured between the ground (at normal grade) and the highest point of the WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position) (See Figure 10).
2. WECS Setback. Setbacks shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic). No part of a WECS (including guy wire anchors, if present) shall be located within or above any required setback.
3. No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.
4. Except as required for commercial WECS, there shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed near the base of the tower or to the nacelle. No sign shall exceed three (3) square feet in area.
5. There shall be no lighting on or directed to the WECS, unless a beacon is required by the Federal Aviation Administration.
6. The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
7. A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding.

8. A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.
9. The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.
10. All WECS installations shall comply with applicable ANSI (American National Standards Institute), NEC (National Electric Code) and National Building Code standards.
11. A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for twelve (12) consecutive months or longer.

C. On-Site Service WECS:

1. On-Site Service WECS Test Facility. The Zoning Administrator may issue a permit to erect a test facility for testing if adequate wind potential exists on the site proposed for an on-site service WECS, provided that the tower does not exceed the height maximum allowed for an on-site service WECS on the same site. The WECS Test Facility permit shall be valid for a period of up to one (1) year.
2. On-site Service WECS General Requirements:
  - a. Power rating of the on-site service WECS turbine shall not be greater than 50 kW.
  - b. The on-site service WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
  - c. An existing and approved on-site service WECS may be repaired and maintained; however, a WECS may only be replaced with a new or replacement WECS upon approval of the Zoning Administrator, subject to a finding that the new WECS is of the same or lesser height, rotor diameter, setback, etc. as the WECS it replaces. Any new or replacement WECS that is larger in any respect than the one it replaces must be approved via the Site Plan Review process. For the purposes of this paragraph, a “new or replacement WECS” shall mean all of the WECS, excluding the tower or support structure.
3. Ground-Mounted On-Site Service WECS
  - a. There shall be no more than one (1) ground mounted on-site service WECS per parcel or lot.
  - b. The on-site service WECS shall be located on the property so that it is set back from the nearest property line a distance equal to the WECS height, measured to the closest vertical extension of the rotor blade relative to the property line (see illustration).
  - c. Lot Area. The on-site service WECS height shall be limited by available setbacks as required in paragraph 1) above; however, no WECS height shall exceed fifty (50) feet on a property less than one (1) acre in area; seventy-five (75) feet on a property

at least one acre but less than three (3) acres in area; or one hundred (100) feet on a property three (3) acres in area or greater.

- d. The minimum rotor blade tip clearance from grade shall be twenty (20) feet.
  - e. The minimum rotor blade tip clearance from any structure shall be twenty (20) feet.
  - f. The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed fifty (50) feet.
  - g. The tower used to support a WECS shall be adequately anchored meeting applicable codes and standards, as certified by an engineer.
4. Building Mounted On-Site Service WECS
- a. There may be more than one (1) on-site service WECS mounted on a single building; however, each individual WECS shall meet all of the requirements in this subsection, and each WECS shall be separated from any other WECS no less than ten (10) feet, measured between the maximum extension of the rotors.
  - b. The diameter of the rotor shall not exceed twenty (20) feet.
  - c. The WECS height shall not exceed the maximum height for principal buildings in the district, plus fifteen (15) feet.
  - d. The WECS shall be mounted so that it is set back from the nearest property line(s) a distance equal to the combined height of the WECS and the height of the portion of the structure on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see Figure 11).

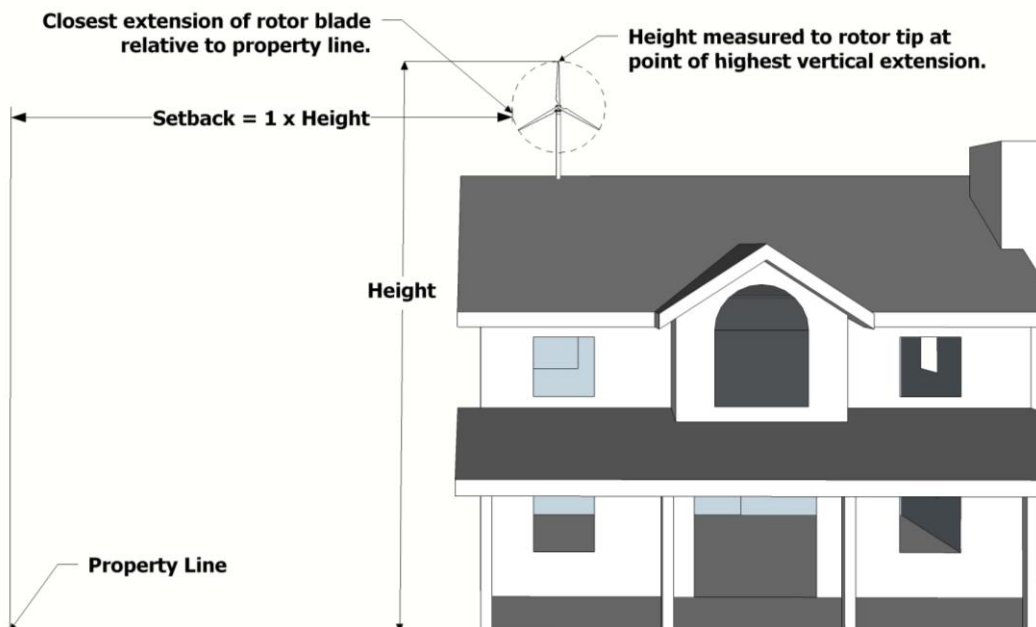


Figure 11: Building Mounted WECS Height and Setback

- e. The mount and the structure used to support a building mounted WECS shall meet applicable codes and standards, as certified by an engineer.
5. Approval of On-Site Service WECS - Discretionary Conditions: The Planning Commission may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any on-site service WECS. Such other terms and conditions may include, but are not limited to, the following:
- a. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
  - b. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
  - c. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.
  - d. Requiring a performance guarantee in the form of a bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the site plan approval, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. Such performance guarantee shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

### **SECTION 3.31 ACCESSORY NON-COMMERCIAL SOLAR ENERGY SYSTEMS**

- A. Applicability
1. This section authorizes and regulates accessory non-commercial building-mounted and ground-mounted solar energy systems in all zoning districts.
  2. This section does not regulate commercial solar energy systems.
  3. This section does not apply to small-scale solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than six (6) feet above the ground.
- B. Application and Review
1. In addition to all other required application contents for zoning and building permits, equipment and unit renderings and plans shall be submitted for review.
  2. Accessory non-commercial building-mounted solar energy systems shall be approved administratively by the Township Building Official.
  3. Accessory non-commercial ground-mounted solar energy systems shall be approved administratively by the Zoning Administrator and the Building Official.
  4. All installation must follow current Federal and State construction, electrical and building codes.
- C. Accessory Non-Commercial Building-Mounted Solar Energy Systems. Systems are permitted on all buildings, as long as all components comply with required building setbacks and maximum height requirements for buildings.
- D. Accessory Non-Commercial Ground-Mounted Solar Energy Systems
1. Glare and Reflection. The exterior surfaces of solar energy collectors shall be substantially non-reflective of light. A system shall not be installed or located in a manner that directs considerable glare onto neighboring dwellings or adjacent streets.

2. Location. Systems shall be placed in rear yards unless existing vegetation and other site constraints make rear yard placement unfeasible. The Zoning Administrator shall refer side and front yard placement requests to the Planning Commission in cases where there is a higher likelihood of visual impact to nearby residents.
3. Installation. Systems shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy shall be submitted to the Township before installation for review and approval by the Fire Department.
4. Wires. All wires shall be buried underground. Overhead wires are prohibited.
5. Setbacks. Accessory non-commercial ground-mounted solar energy systems shall be subject to the setbacks required for accessory buildings. Measurement shall be taken from the outermost edge of the support structure or solar panel, whichever is closer to the property line, to the applicable property line.
6. Maximum Number. One (1) accessory non-commercial ground-mounted solar energy system and its associated support structure are permitted per lot or parcel.
7. Maximum Size. Systems shall be no larger than the square footage required to provide power to a residence and accessory buildings on a lot or parcel but shall not exceed 1,500 square feet of collector panels. Proposed system power generation specifications shall be provided by the applicant for Township review.
8. Maximum Height. The maximum height of a system at its highest point, or at full title, shall be sixteen (16) feet. Height is measured from the natural grade below the system to the highest point of the panels or any part of the support structure, whichever is greater.
9. Abandonment. Systems that cease to produce energy continuously for 12 months will be considered abandoned by the Township unless the property owner provides a plan to reinstate the operation before the end of the 12-month period. If a plan is provided, a 12-month extension for reinstatement may be granted by the Zoning Administrator.
10. Removal. The property owner shall remove the support structure, panels, and all equipment and restore the site to its condition prior to the installation of the system within one (1) year of abandonment.



## CHAPTER 4

### ZONING DISTRICTS AND ZONING MAP

#### SECTION 4.01 ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, Bertrand Township is divided into residential and non-residential Zoning Districts, as defined in Chapter 2 Definitions.

#### SECTION 4.02 OFFICIAL ZONING DISTRICTS MAP

The boundaries of the Zoning Districts enumerated in Section 4.01 are hereby established as shown on the "Official Zoning Map, Bertrand Township," which accompanies this text; this map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the Township Clerk, accessible to the public, and shall be the final authority as to the current zoning status of all property in the Township.

#### SECTION 4.03 INTERPRETATION OF DISTRICT BOUNDARIES

If because of the scale, lack of details, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of District boundary lines shall be determined by the Zoning Administrator considering the following:

- A. The boundaries of Zoning Districts are intended to follow or be parallel or perpendicular to centerlines of alleys, streets, other rights-of-way, or lot lines, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where District boundaries are indicated to approximately follow lot of record lines, those lines shall be the boundaries.
- C. Unless shown by dimension on the Official Zoning Map, where a District boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
- D. Where District boundaries are indicated as approximately following township limits, they shall follow the township limits.
- E. A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall follow the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall follow that centerline.
- F. If a District boundary is indicated as being parallel to, or an extension of a feature described in this Section it shall be used as the boundary.

#### SECTION 4.04 ZONING OF VACATED AREAS

If a street, alley or other public right-of-way within the township is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.





## CHAPTER 5 AG AGRICULTURAL DISTRICT

### SECTION 5.01 STATEMENT OF PURPOSE

- A. Consistent with the overall vision articulated previously in this document, a major emphasis is placed on supporting the continuation of farming as an essential land use in the Township. The presence of agricultural activities in Bertrand Township reflects its rural character and quality of life. The intent of the Agricultural District is to provide for the continuation of farming.
  
- B. The regulations of the Agricultural District are intended to ensure that land areas within the township which are well suited for production of food and fiber are retained for that purpose, unimpeded by the establishment of incompatible uses which would hinder farm operations and irretrievably deplete agricultural lands. As an Agricultural District, certain effects such as odors, noise, application of chemicals, and other external effects typically associated with farming operations shall be recognized and reasonably tolerated provided they do not pose a threat to the general health, safety, and welfare of Bertrand Township residents.
  
- C. Open space developments are encouraged. The District accommodates very low density residential development and other uses generally associated with an agricultural and rural character.

### SECTION 5.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the AG District:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.
  
- SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.

Table of Uses: AG District		
Accessory Uses	Accessory structures and uses, subject to Section 3.10	P
	Home occupation subject to Section 3.23	P
	Family day care home (1-6 persons)	P
	Group day care home	SLU
	Bed and breakfast establishment	SLU
	Private stable	P
	Private swimming pool	P
	Guest House	SLU
	Artificial lake or pond, subject to State agency requirements	P
	Commercial Solar Energy Systems	SLU
	On-site service wind energy conversion systems (WECS), subject to Section 3.30	P
	Commercial WECS and WECS Testing Facilities associated with a Commercial WECS	SLU

Table of Uses: AG District		
Agricultural and Residential Uses	Single-family dwelling (detached)	P
	Temporary dwellings for farm or migrant workers	SLU
	Open space development	SLU
	Agricultural service establishments	SLU
	General farming	P
	Keeping of animals, according to Section 3.22	P
	Commercial horse riding/breeding/boarding stable	SLU
	Roadside stand subject to Section 3.24	P
	Farm market	P
	Farm winery	SLU
	Game farm	SLU
Non-Agricultural Uses	Home-based business	SLU
	Removal and processing of topsoil, stone, rock, sand, gravel, lime or soil or similar mineral resources	SLU
	Commercial trucking	SLU
	Commercial Solar Energy Systems	SLU
	Wireless telecommunication towers, commercial	SLU
	Kennels, commercial	SLU
	Place of religious worship	SLU
	Campgrounds	SLU
	Cemeteries	SLU
	Barn Weddings and Receptions	SLU
	Greenhouses, commercial	SLU
	Greenhouses noncommercial	P
	Public park or recreation area	P
	Boat rental and bait/tackle sales	SLU
	Golf course or country club	SLU
	Airport or heliport	SLU

**SECTION 5.03 LOT, YARD AND BUILDING REQUIREMENTS**

- A. No lot, principal building, or structure, nor the enlargement of any principal building or structure, shall be hereafter erected unless all of the following requirements are met and maintained in connection with the use of the lot, building, structure, or enlargement.

Lot, Yard, and Building Requirements: AG District	
Minimum Lot Area	3 acres
Minimum Lot Width	200 feet
Minimum Front Yard Setback	50 feet
Minimum Side Yard Setback	20 feet
Minimum Rear Yard Setback	50 feet
Maximum Building Height	2½ stories; or 35 feet, whichever is higher
Minimum Dwelling Unit Size	1,200 square feet

## CHAPTER 6 RR, R-1, AND R-2 RESIDENTIAL DISTRICTS

### SECTION 6.01 INTENT AND PURPOSE

The regulations of these Districts are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses. The intent of the Districts is to protect residential areas from the encroachment of uses that are not appropriate to a residential environment.

### SECTION 6.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the RR Rural Residential; R-1, Low Density Residential and R-2, Medium Density Residential Districts:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.
- SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.
- NP: Not Permitted: The use is not permitted in the District.

Table of Uses		RR	R-1	R-2
<b>Accessory Uses</b>	Accessory structures and uses as defined in Chapter 2 and subject to Section 3.10	P	P	P
	Home occupation subject to Section 3.23	P	P	P
	Family day care home	P	P	P
	Group day care home	SLU	SLU	SLU
	Guest House	SLU	SLU	NP
	Bed and breakfast establishment	SLU	SLU	SLU
	On-site service wind energy conversion systems (WECS), subject to Section 3.30	P	P	P
	Commercial WECS and WECS Testing Facilities associated with a Commercial WECS	SLU	NP	NP
<b>Residential Uses</b>	Senior housing	NP	NP	SLU
	Single-family detached dwelling	P	P	P
	Two Family dwellings	NP	NP	SLU
	Multiple Family dwellings	NP	NP	SLU
	Open space development	SLU	SLU	SLU
	Manufactured housing community	SLU	SLU	SLU
	Lot sales (not including manufactured home sales and display) and maintenance office for a manufactured home community	SLU	SLU	SLU
	Park, playground or community center serving a manufactured housing district	SLU	SLU	SLU
	Home occupations conducted within dwelling units in a manufactured housing community	SLU	SLU	SLU
	Accessory structures and uses in conjunction with a manufactured housing community and the dwellings within the community	SLU	SLU	SLU

<b>Table of Uses</b>		<b>RR</b>	<b>R-1</b>	<b>R-2</b>
	On-site service wind energy conversion systems (WECS), serving only community centers, sales offices or other permitted non-residential uses within a manufactured housing community, subject to Section 3.30.	SLU	SLU	SLU
<b>Institutional Uses</b>	Convalescent or nursing home	NP	NP	NP
	Elementary, middle and high school (private)	SLU	SLU	SLU
	Cemetery	SLU	SLU	SLU
	Place of religious worship	SLU	SLU	SLU
	Hospital	NP	NP	NP
	Municipal and public service activity	P	P	P
	Golf course or country club	SLU	SLU	SLU
<b>Non-Residential Uses</b>	Agricultural operation including general farming, truck farming, fruit orchard, nursery, greenhouses, and usual farm buildings but excluding intensive livestock operations	P	NP	NP
	Barn Weddings and Receptions	SLU	NP	NP
	Campground, public or private, including travel trailer park	SLU	NP	NP
	Commercial trucking	SLU	NP	NP
	Horse riding stable, horse breeding stable	SLU	SLU	NP
	Home-based business	SLU	NP	NP
	Public and utility service building, not including storage yard	SLU	SLU	SLU
	Park, playground or community center	P	P	P
	Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources	SLU	NP	NP
	Utility substation, transmission line and switching station	SLU	SLU	SLU
	Wireless telecommunication towers not exceeding 75 feet in height wholly owned and used by a federally licensed amateur radio station operator.	P	P	P
	Other similar uses not listed above	SLU	SLU	SLU

**SECTION 6.03 SPATIAL REQUIREMENTS**

No lot, principal building, or structure, nor the enlargement of any principal building or structure, shall be hereafter erected unless all of the following requirements are met and maintained in connection with the use of the lot, principal building, structure, or enlargement.

Spatial Requirements					
Requirement		RR	R-1	R-2	
Lot Requirements	Minimum Area (sq. ft.)		2 acres	2 acres	1 acre
	Minimum Width (ft.)		200	150	100
	Width to Depth Ratio		1:4 (see Section 3.08)		
Setback Requirements	Front (ft.)		50	50	50
	Side (ft.)	Residential	20	20	20
		Nonresidential	50	50	50
	Rear (ft.)		50	50	50
Building Requirements	Maximum Height (ft.)		35	35	35
	Dwelling Unit Floor Area (UFA) (sq. ft.)		950	950	950
Open Space	Percentage Total Area (Useable)		NA	PUDs only	
				25%	25%



## CHAPTER 7

### C COMMERCIAL DISTRICT

#### SECTION 7.01 INTENT AND PURPOSE

There is not a strong desire or need for widespread commercial uses in the township. Furthermore, given the rural character of the township and the lack of utilities and infrastructure, significant additional commercial uses would place an undue burden on the community. Most commercial needs can be met in the nearby cities of Buchanan, Niles, South Bend and surrounding areas. However, there is a desire for some limited convenience service at specific locations, but these should be compatible with the character of the community, complement the development that already exists, and not create the appearance of commercial strips. The Commercial District is intended to provide for this need.

#### SECTION 7.02 TABLE OF USES

The following abbreviations apply to the Table of Uses:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.
- SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.

Table of Uses	C
Accessory apartment as part of a commercial use	SLU
Accessory structures and uses as defined in Chapter 2 and subject to Section 3.10	P
Agricultural service establishments	P
Bank or other financial institution without drive through facility	P
Banquet hall and/or conference center	SLU
Commercial day care center	SLU
Commercial Solar Energy Systems	SLU
Commercial Storage Warehouses	SLU
Commercial trucking	SLU
Drive through facility other than a restaurant (e.g., automated teller machine, bank, pharmacy)	SLU
Fraternal or social club or lodge	SLU
Health or exercise club	P
Hospital	SLU
Hotel/motel	SLU
Indoor theater	P
Kennels, commercial	SLU
Laundromat	P
Medical office, including clinic	P
Mortuary or funeral home	SLU
Nursing/Convalescent home	SLU

Table of Uses		C
On-site service wind energy conversion systems (WECS), subject to Section 3.30		P
Open air business		SLU
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)		P
Place of religious worship		P
Professional office		P
Public and utility service building		SLU
Recreation facility, indoor (e.g., arcades, bowling, billiards)		SLU
Recreation facility, outdoor (e.g., mini-golf, batting cages)		SLU
Restaurant	With drive-through	SLU
	Without drive-through	P
Retail building supplies and garden and landscape supply stores.		SLU
Retail establishment under 10,000 square feet GFA		P
Retail establishments over 10,000 square feet GFA		SLU
Vehicle repair, minor		P
Vehicle repair, major		SLU
Vehicle sales		P
Vehicle service station		SLU
Vehicle wash establishment		SLU
Veterinary clinic		P
Wireless telecommunications tower, commercial		SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions		P

**SECTION 7.03 SPATIAL REQUIREMENTS**

A. Spatial Requirements

Spatial Requirements		
Requirement		C Commercial
<b>Lot Requirements</b>	Minimum Area	1 acre
	Minimum Width	150 ft.
	Minimum Depth	150 ft.
	Maximum Lot Coverage	50%
<b>Spatial Requirements</b>	Front	50 ft
	Side	20 ft. (40 ft. if adjacent to Residential District property)
	Rear	20 ft.
<b>Building Requirements</b>	Maximum Height	4 stories
	Minimum Height	NA



## CHAPTER 8 IND – INDUSTRIAL DISTRICT

### SECTION 8.01 INTENT AND PURPOSE

The regulations of this District are intended primarily for more intensive commercial and general industrial uses. The District is established to encourage operations which manufacture, compound, processing, package, treat and assemble products from previously prepared materials.

### SECTION 8.02 TABLE OF USES

The following abbreviations apply to the Table of Uses:

- P:** Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.
- SLU:** Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.

Table of Uses	IND
Accessory office areas related to principal uses	P
Accessory apartments as part of an industrial use	SLU
Airports and landing fields	SLU
Agricultural service establishments	P
Assembly of paperboard containers, building paper, building board, and bookbinding	P
Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities	SLU
Commercial day care centers that are clearly incidental and accessory to the principal use	P
Commercial Solar Energy Systems	SLU
Commercial storage warehouse	P
Commercial trucking	SLU
Contractors yards, building material storage	P
Freight forwarding, packing, and crating services	P
Hospital	P
Laboratories including experimental, film, and testing	P
Lumberyards	P
Motor freight terminal including garaging and maintenance of equipment	SLU
Nursing/Convalescent home	P
On-site service wind energy conversion systems (WECS), subject to Section 3.30	P
Printing and publishing	P
Production of apparel and other finished products	P
Production of food products (not including slaughterhouses)	SLU
Production of household goods	P
Production of lumber and wood products	P

<b>Table of Uses</b>	<b>IND</b>
Production or assembly of furniture and fixtures	P
Public and utility service buildings	P
Research and development facilities	P
Retail sales of goods incidental to the primary use, no more than 20% of UFA used for retail	P
Salvage or junk yards	SLU
Sexually oriented businesses	SLU
Tool and die manufacturing facilities	P
Trade or industrial schools	SLU
Utility substation, transmission line and switching station	SLU
Vehicle repair, minor and major	P
Vehicle wash establishments	SLU
Veterinary clinic	P
Warehouses, cartage businesses	SLU
Water supply and treatment facilities	P
Wholesale establishments	P
Wireless telecommunications tower, commercial	SLU
Wireless Communications Antenna when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions	P

**SECTION 8.03 SPATIAL REQUIREMENTS**

A. Lot, Yard, and Building Requirements. The following Lot Yard and Building Requirements shall apply to all uses except for a manufactured housing community. See Chapter 11 for Lot, Yard and Building Requirements for a Manufactured Housing Community.

<b>Spatial Requirements</b>			
<b>Requirement</b>		<b>IND Industrial</b>	
<b>Minimum Lot Requirements</b>	Area	1 acre	
		Industrial park, 20,000 sq. ft.	
	Width	150 ft.	
	Width to depth ratio	1:4	
	Maximum Coverage	75%	
<b>Spatial Requirements</b>	Front	50 ft.	
	Side	Side yard	25 ft.
		Adjacent to Residential District or use lot	50 ft.
	Rear	Adjacent to Nonresidential District	25 ft.
		Adjacent to Residential District	50 ft.
<b>Building Requirements</b>	Maximum Height	50 ft.	

## CHAPTER 9 L – LANDFILL DISTRICT

### SECTION 9.01 INTENT AND PURPOSE

The regulations of this District are intended to provide for lands where a municipal landfill can be operated, along with any uses accessory to a landfill. In addition, this district provides locations where landfill gases or other landfill byproducts can be utilized for energy generation. The district also provides for some end uses after the municipal landfill is closed and capped.

### SECTION 9.02 TABLE OF USES

The following abbreviations apply to the Table of Uses:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

NP: Not permitted.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 11 are met.

Table of Uses	L
Landfills owned by or contracted for use by municipalities	P
Privately owned and operated landfills	NP
Energy generation plants using landfill gas or other landfill byproducts as an energy source	SLU
Farms	P
Industrial uses on the landfill site that use energy generated on the landfill site as their primary energy source	SLU
Greenhouses and plant nurseries	P
Golf course or country club	SLU
On-site service wind energy conversion systems (WECS), subject to Section 3.30	P
Commercial WECS and WECS Testing Facilities associated with a Commercial WECS	SLU
Parks	P
Commercial Solar Energy Systems	SLU

**SECTION 9.03 SPATIAL REQUIREMENTS**

A. Spatial Requirements.

<b>Lot, Yard, and Building Requirements</b>			
<b>Requirement</b>		<b>L Landfill</b>	
<b>Minimum Lot Requirements</b>	Area	50 acres	
	Width	330 ft.	
	Width to depth ratio	1:4	
<b>Setback Requirements (see 1, below)</b>	Front	50 ft.	
	Side	Adjacent to Nonresidential District	50 ft.
		Adjacent to Residential District or use lot	100 ft.
	Rear	Adjacent to Nonresidential District	50 ft.
		Adjacent to Residential District	100 ft.
<b>Building Requirements</b>	Maximum Height	50 ft.	

1. All excavation, compaction and filling activities shall be set back a minimum distance of 100 feet from all exterior lot lines.

## CHAPTER 10

### PLANNED UNIT DEVELOPMENT - PUD

#### SECTION 10.01 INTENT AND PURPOSE

Traditional zoning, with its rigid separation of uses into different zones under very restricted placement controls, has been recognized as being inappropriate to many types and sizes of developments. Planned Unit Developments (PUD) modify the traditional forms of zoning to permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable and more economical development. This Chapter provides a controlled degree of flexibility in the placement of structures, and lot sizes, and uses, while maintaining superior planning and development standards. The Planned Unit Development (PUD) provisions shall be applied as a Zoning District, in accordance with the regulations of this Chapter.

#### SECTION 10.02 OBJECTIVES

- A. The PUD Objectives are intended to guide the applicant in the preparation of the land use and development plan and they shall be used as a basis for the evaluation of the proposed PUD. The following Objectives shall be considered in reviewing an application for PUD zoning in order to realize the inherent advantages of coordinated, flexible, comprehensive, and long-range, planning and development of the PUD.
1. To provide more desirable living, shopping and working environments by preserving the natural character of open fields, stands of trees, brooks, ponds, floodplains, shorelines, hills, and similar natural assets.
  2. To encourage, with regard to residential use, the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units.
  3. To encourage developers to use a more creative and imaginative approach in the development of residential areas.
  4. To provide more efficient and aesthetic use of open areas.
  5. To encourage innovation in the physical development pattern of the township by providing a variety of housing arrangements with well designed access and circulation.
  6. Ensure compatibility of design and function between neighboring properties.
  7. Promote efficient provision of public services and utilities.
  8. To allow a process to consider the Open Space Development option per the Zoning Enabling Act.
- B. Planned Unit Developments are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements, but with specific modifications that, in the judgment of Bertrand Township, assure a superior quality of development. If this improved quality is not clearly apparent, an application shall not qualify for the modifications allowable under this Chapter.

#### SECTION 10.03 ELIGIBILITY CRITERIA

To be eligible for Planned Unit Development approval, the applicant must demonstrate that all of the following criteria will be met:

- A. Demonstrated Benefit: The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district:
1. Preservation of significant natural or historic features.
  2. Preservation of agricultural lands.
  3. A complementary mixture of uses or a variety of housing types.
  4. Common open space for passive or active recreational use. Noncontiguous open space is permitted but in no case shall the project open space be less than ten percent (10%) of the total site area.
  5. Redevelopment of a nonconforming site where creative design can address unique site constraints.
- B. Control of Property, Unified Agreement: Land owners involved in an application for a proposed Planned Unit Development must provide a signed agreement among all involved parties, which is approved by the Township's attorney that indicates their unified approach to the PUD development concept.

#### **SECTION 10.04 APPLICATION AND REVIEW**

- A. Process: An application for a PUD shall consist of the following minimum requirements:
1. A fully completed and signed application form as provided by the Township.
  2. The application review fee and any other fees required by the Township.
  3. A legal description of the property to be included in the PUD.
  4. Twelve (12) copies of a Parallel Plan and a Preliminary Plan, or Final Plan, as applicable, completed in accordance with the requirements of this Chapter.
  5. A Planned Unit Development approval shall require a rezoning from the existing zone district to the PUD District. The rezoning shall not be considered until approval of a Final PUD Plan has been granted.
  6. Within one (1) year from the Preliminary Plan approval the applicant shall submit a Final PUD application and a petition for PUD rezoning. Failure to submit the application within this time will void the Preliminary Plan approval.
  7. A table of modifications.
- B. PUD Review Steps. Review of PUD proposals shall be processed in accordance with the following steps:
1. Preliminary PUD Development Plan and Rezoning.
    - a. Pre-Application Conference.
    - b. Preliminary Plan and rezoning request submission.
    - c. Planning Commission review, public hearing, and recommendation.
    - d. Township Board review and decision.
  2. Final PUD Development Plan.
    - a. Preliminary Development Plan Submission.
    - b. Planning Commission review, public hearing (if determined), and recommendation.
    - c. Township Board review, public hearing (if determined), and decision.

- C. Deviations from Minimum Requirements. District regulations applicable to a land use in a PUD may be altered from those of the district(s) in effect immediately prior to the PUD rezoning, which shall be limited to, modification from the lot area and width, building setbacks, height, lot coverage, minimum floor area, landscaping, lighting, signs, and parking. The applicant for a PUD shall identify, in writing, all intended deviations from the prior zoning being proposed. Deviations may be approved during the Preliminary PUD Development Plan review by the Township Board after the Planning Commission recommendation. These adjustments may be permitted only if they will result in a higher quality of development or better integration of the proposed use(s) with surrounding uses. The application shall demonstrate and justify how the proposed deviations achieve the purposes of PUD expressed in Sections 10.01 and 10.02 and the recommendations of the Bertrand Township Master Plan.

#### **SECTION 10.05 PRE-APPLICATION PROCEDURES**

- A. Pre-Application Conference. The purpose of a pre-application conference with Township Officials and the Zoning Administrator is to review the concept of the proposed PUD, discuss the review process, and determine the eligibility of the request.
1. Conference Request. A request for a pre-application conference shall be made to the Zoning Administrator.
  2. Requirement Materials. As part of the pre-application conference, the applicant shall submit a copy of a sketch plan that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.
  3. Guidance. The Zoning Administrator shall advise the applicant of the conformance of the PUD concept with the objectives of the township, whether the concept qualifies under the requirements of this article, and whether the general concept is substantially consistent with the Bertrand Township Master Plan. Formal action shall not be taken at a preapplication conference and statements made at the pre-application conference shall not be considered binding commitments or an approval of the concept.

#### **SECTION 10.06 PRELIMINARY PUD PLAN**

- A. Application. Applications for PUD review approval shall include 12 copies the following materials at least 30 days prior to the meeting at which the Planning Commission will review the application. The Zoning Administrator may, subject to the concurrence of the Planning Commission, waive any of the application requirements contained in this Section if it is determined that such information is not necessary to determine compliance with the provisions of this Chapter.
- B. Submittal Requirements.
1. Preliminary Plan. The Preliminary Plan may be in general, schematic form containing, at a minimum, the following:
    - a. A legal description of the site, reflecting area size and boundary line dimensions. A current, properly notated surveyor's map may be acceptable.
    - b. The Preliminary Plan shall show enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.
    - c. Existing and proposed land uses and their approximate location, character, density, and type, including the character and approximate net residential density being proposed.
    - d. Existing topographic character of the site.

- e. Circulation patterns including roadways, drives, parking areas, and pedestrian ways.
  - f. Public uses including schools, parks, open space, etc.
  - g. Existing flood plains, bodies of water, wetlands and other unbuildable areas.
  - h. Existing significant natural features and planned open space.
2. Project Narrative and Supplemental Information. A written statement shall also be submitted with the Preliminary Plan containing, at a minimum, the following information:
    - a. An explanation of the character of the PUD, the way it has been planned to take advantage of the PUD regulations, and the manner in which it reflects the PUD Objectives of this Chapter.
    - b. Stages or phases in which the project will be built including the expected starting and completion dates of each phase.
    - c. A general indication of the expected schedule of development.
    - d. A general indication of the expected public interest to be served by the PUD and conformance of the PUD to the Bertrand Township Master Plan.
    - e. A general statement regarding conformance to the development requirements for the PUD as stated in this Chapter.
    - f. An indication of any contemplated private deed restrictions or covenants.
    - g. A description of how the PUD meets the requirements of Section 10.03.
  3. Fee. An application fee as established by the Township Board.
- C. Planning Commission Review.
1. Initial Review. The Planning Commission shall review the preliminary development plan at a regular or special meeting. Upon determination by the Planning Commission that the application meets the requirements of this article, a public hearing shall be set. Notice of the public hearing shall conform to the requirements of Section 103 of the State of Michigan Zoning Enabling Act.
  2. Public Hearing and Recommendation. The Planning Commission shall review the Preliminary PUD Plan in consideration of public hearing comments, technical reviews from township staff and consultants, correspondence from applicable review agencies, and compliance with the standards of this article, and other applicable township standards and requirements. The Planning Commission shall recommend approval, approval with conditions or denial of the Preliminary PUD Plan and rezoning to the Township Board. The recommendation shall be based on the following:
    - a. Whether all applicable provisions of this article are met.
    - b. Whether the qualifying conditions in Section 10.03 are met.
    - c. Conformance of the PUD request with the Bertrand Township Master Plan.
    - d. The overall objectives of PUD as stated in Section 10.02.
    - e. The development requirements and permitted uses for the PUD. The PUD shall not change the essential character of the surrounding area, unless called for in the Bertrand Township Master Plan.



- f. Compatibility of the proposed PUD and its specific uses with existing and proposed development in the surrounding area.
  - g. The proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.
  - h. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with the Bertrand Township Master Plan.
  - i. The PUD shall not place demands on public services and facilities more than current or anticipated future capacity.
3. Conditions. The recommendations of the Planning Commission concerning the preliminary development plan may include, but need not be limited to, the following:
    - a. Additions, deletions or changes to the preliminary development plan which are deemed necessary to comply with the standards for approval.
    - b. Request for additional information to be provided as part of the final development plan submittal.
  4. Applicant. A copy of the recommendations pertaining to the preliminary development plan shall also be transmitted to the applicant.
- D. Township Board Review.
1. Township Board Action. Following receipt of a recommendation from the Planning Commission on the Preliminary PUD Development Plan and rezoning, the Township Board shall review the application and approve, deny, or approve with conditions.
  2. Conditions. In accordance with the Michigan Zoning Enabling Act, reasonable conditions may be attached to the approval of a PUD for the purpose of: ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protecting the natural environment and conserving natural resources; ensuring compatibility with adjacent uses of land; promoting the use of land in a socially and economically desirable manner; and furthering implementation of the Bertrand Township Master Plan. Conditions attached to the approval shall be incorporated into the PUD adoption ordinance.
  3. Rezoning. Upon approval by the Township Board, the property subject to the preliminary development plan shall be rezoned to PUD, which shall become effective after notification and publication according to the Michigan Zoning Enabling Act.
- E. After final approval, the following requirements shall also be met, if applicable:
1. Where the provisions of Act 288, Michigan Public Acts of 1967 (Land Division Act) or the Condominium Act shall apply, the applicant shall thereafter submit the information and plans as may be required by the Act and all other local procedures or regulations pertaining to planning approval. Subdivision platting or site condominium review may run concurrently with Final PUD Plan review.
  2. The Township Board shall cause to have legal documents or contracts prepared which involve Bertrand Township and are required as a result of the conditions contained in the final approval. These include but are not limited to: provision of public services, arrangements for the perpetual maintenance and protection of designated open space and description of the approved building designs and density. All legal documents and contracts shall be executed and recorded in the office of the Berrien County Register of Deeds.

3. The Preliminary PUD Plan shall not be considered effective until the applicant submits a written acceptance of the approval. This must be provided within seven (7) days of approval to provide sufficient time for publication in the newspaper and establishment of an effective date of the PUD rezoning.

#### **SECTION 10.07 FINAL PUD PLAN**

- A. **General Requirements.** Within one (1) year from the Preliminary PUD Plan review the applicant shall submit an application for a Final PUD Plan. A Preliminary PUD Plan approval shall expire after the one (1) year time period, unless a request for an extension is submitted and approved by the Township Board.
- B. **Application.** Applications for PUD review approval shall include 12 copies the following materials at least 30 days prior to the meeting at which the Planning Commission will review the application. The Zoning Administrator may, subject to the concurrence of the Planning Commission, waive any of the application requirements contained in this Section if it is determined that such information is not necessary to determine compliance with the provisions of this Chapter.
- C. **Submittal Requirements.**
  1. **Site Plan.** A final site plan as specified in Chapter 12 for the entire PUD or for one (1) or more phases of the PUD.
  2. **Project Narrative and Supplement Information.**
    - a. A development schedule indicating the approximate date for commencement of construction.
    - b. Agreements, provisions, or other covenants which will govern use, maintenance, and continued protection of the PUD and any of its common use or open space areas.
  3. **Fee.** An application fee as established by the Township Board.
- D. **Planning Commission Review.** The Final PUD Plan and all of its phases shall conform substantially to the reviewed Preliminary Plan. Should the Planning Commission find that major alterations to the Preliminary Plan or any phase of the PUD have been made, the Commission may elect to treat the application as a new Preliminary Plan in accordance with the procedures Section 10.06. The Final PUD Plan shall also conform to the site plan review standards of Chapter 12.

#### **SECTION 10.08 PERMITTING AND INSPECTIONS**

- A. No building permits may be issued until the final approval is granted and the written acceptance has been received.
- B. The Zoning Administrator shall inspect the development at each stage to ensure reasonable compliance with the conditions of the Final PUD approval, the Final Site Plan and the approved schedule of improvements.
- C. If the PUD is to be developed in phases, the final site plan may be prepared for one (1) or more phases. Approval of the Final PUD shall be completed prior to the development of an individual phase. All phases must be generally consistent with the approved preliminary sketch plan for the PUD.

**SECTION 10.09 CHANGES TO AN APPROVED PUD**

- A. Following approval of the final site plan the Zoning Administrator may approve certain minor deviations. The applicant or land owner who was granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.
- B. The Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.
- C. The Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the PUD would not reduce the area devoted to open space, and all applicable regulations of this Ordinance will be met. The Zoning Administrator shall inform the Planning Commission of the approval in writing.
- D. The Zoning Administrator shall consider the following when determining a change to be minor:
1. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback.
  2. Gross floor area of non residential buildings may be decreased; or increased by up to three percent (3%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met, and the building does not extend into any required open space or required setback.
  3. Floor plans may be changed if consistent with the character of the use.
  4. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.
  5. Height of buildings may be lowered.
  6. Designated woodlands or areas not to be disturbed may be increased.
  7. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced on a caliper per caliper basis on the site. For example, a twelve (12) inch in diameter tree could be replaced with six (6) two (2) inch in diameter trees.
  8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
  9. Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Zoning Administrator.
  10. Grade change of up to one (1) foot, after review by the Township Engineer.
  11. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan.
  12. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  13. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan.
  14. Changes required or requested by the County or State for safety reasons.

- E. Should PUD approval or any regulatory modifications are not subject to variance approval the Zoning Administrator determine that a requested amendment to the approved Final PUD Site Plan is major, re-submittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved preliminary PUD plan; a revised Preliminary Sketch Plan shall be submitted according to the procedures outlined in this Chapter. In all cases, a change in use to a more intensive use than approved in the Preliminary Sketch Plan shall be considered major and require resubmission of a new Preliminary Sketch Plan.
- F. Decisions granting of the Zoning Board of Appeals. No decision regarding the PUD may be appealed to the Zoning Board of Appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following approval of the Final PUD, provided the variance does not involve alterations to open space areas as shown on the Final PUD site plan and otherwise meets the applicable review standards applicable to variances in this Ordinance.

## SECTION 10.10 DEVELOPMENT REQUIREMENTS

- A. Permitted Uses: The following uses of land and structures may be permitted within a PUD.
1. Single-family detached dwellings.
  2. Two-family dwellings, provided that these units make up no more than twenty percent (20%) of the total number of residential dwelling units in the PUD, or any phase of the PUD.
  3. Multiple family dwellings, provided that these units make up no more than twenty percent (20%) of the total number of residential dwelling units in the PUD, or any phase of the PUD.
  4. Golf courses, indoor tennis clubs, athletic clubs, and marinas, including ancillary commercial activities such as pro shops, restaurants (excluding those with drive through facilities), and similar uses, open only to members and their guests.
  5. Any "Permitted Use" or "Special Land Use" within the C District, subject to Township approval, provided that:
    - a. The total site of the PUD where the commercial uses are located is at least ten (10) contiguous acres.
    - b. The gross area designated for commercial use including parking, access ways, and yards or open space shall not exceed ten percent (10%) of the gross site area of the PUD;
    - c. All of the uses are integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.;
    - d. The uses shall not materially alter the residential character of the neighborhood and/or the PUD;
    - e. All merchandise for display, sale or lease shall be entirely within an enclosed building(s); and f. Buildings designed for commercial or office uses are constructed according to the following schedule:
      - i. If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) of these units must be constructed prior to beginning construction of any non-residential use.

- ii. If the PUD contains more than twenty (20) dwelling units, fifty percent (50%) of these units shall be constructed prior to beginning construction of any nonresidential use.
  - iii. In no case shall commercial uses be established without the construction and occupancy of at least twenty (20) residential dwelling units or ten percent (10%) of the total number of residential units whichever is greater.
6. Accessory buildings, structures, and uses, as regulated by Section 3.10.
  7. On-site service wind energy conversion systems (WECS), subject to Section 3.30.

#### B. Design Standards

1. Density and height limits of the district(s) from which the PUD was zoned shall not be increased by more than twenty-five percent (25%).
2. The minimum lot area requirements for any residential lot may be reduced by ten percent (10%) of the underlying zone district requirement, provided, however, the Township Board may permit additional relaxation, not to exceed a total of twenty five percent (25%) based on demonstration that the project has been designed to protect and maintain the natural character of the site, and will not be harmful to surrounding land uses.
3. Utilities shall be underground to the maximum extent feasible.
4. Dead-ends or cul-de-sacs serving the development are discouraged. Eyebrow, court, or stub streets are preferred.
5. Where adjoining areas are not subdivided, the arrangement of streets within the PUD may be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
6. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views.
7. Site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate principal buildings from the parking lots.
8. Natural features shall be preserved to the maximum extent possible.
9. At least fifteen percent (15%) of the site shall be set aside as dedicated common open space. At least one third (1/3) of the common open space shall be usable open space. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach the recreational or common open spaces. Open space shall be permanently protected and evidence of the method of protection provided to the Township.
10. To reduce the potential for soil erosion, no building shall be sited on slopes steeper than fifteen percent (15%), within one hundred (100) feet of any ordinary high water mark, wetland, or on soil classified as being very poorly drained.

#### C. Open Space

1. Open space may be established to separate use areas within the PUD, where significant natural features may be preserved, and/or be used for passive or active recreation.

2. Open space, except for where trails and bike paths are located, shall have minimum dimension of one hundred (100) feet by one hundred (100) feet.
3. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
4. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach recreational or common open spaces.
5. Requirements for maintenance of the open space shall be provided. In the event that the open space is not adequately maintained, or is determined by the Zoning Administrator to be a public nuisance, the costs for maintenance shall be assessed upon the owners of the open space.
6. All land set aside as open space shall be deed restricted to ensure that the open space is preserved in perpetuity. Land set aside for agriculture uses may, at the discretion of the property owner(s), be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development, unless an amendment to the PUD is applied for and approved.

#### **SECTION 10.11 DENSITY AND BONUSES**

- A. Residential Density. The total number of dwelling units permitted within a PUD shall be computed by multiplying the maximum permitted density (units per acre) by the total acreage of the PUD property, excluding land within public or private road rights-of-way and public easements, flood-plain and wetland areas, and areas permanently inundated by water.
- B. Density Bonus Eligibility. Density bonuses are available for PUDs of ten (10) acres or more.
- C. Density Bonus Qualification. To qualify for a density bonus, the property proposed for a PUD shall meet one (1) or more of the following:
  1. The applicant must demonstrate that the property proposed for a density bonus contains significant and/or unique site conditions, significant natural features, or large open spaces which would otherwise be developed but which will be preserved as open space as a result of granting the density bonus.
  2. The applicant must demonstrate, in writing and other appropriate material that the proposed PUD, with its added density, meets the intent of this Chapter, in addition to the PUD Intent and Objectives, as described in Sections 10.01 and 10.02, and all other requirements of this Ordinance for a PUD.
  3. The PUD provides one (1) or more of the following features:
    - a. Walking trails/bikeways/pathways through the entire MD/PUD and/or links to adjacent facilities of a similar nature.
    - b. Active recreation areas (ball field, tennis court, small playground area or “tot lot,” swimming pool, etc.) at a ratio of at least one (1) facility per twenty-five (25) dwelling units.
    - c. Innovative design features, such as traditional neighborhood development, traffic calming measures, innovative storm water management, and other similar features throughout the development.
- D. Review. Density bonuses shall be approved in association with the Preliminary PUD Plan and Rezoning. Where applicable, the Township Board, after recommendation by the Planning Commission, may award a smaller bonus than the maximum permitted below. In determining the

amount, if any, of a density bonus to be awarded, the Township Board and Planning Commission shall consider the location, character, quality and extent of the elements provided.

- E. Calculation. Open space preservation development may qualify for density bonuses in accordance with the following provided the total density bonus shall not exceed a maximum of one hundred percent (100%) of the units otherwise permitted:
1. Not less than thirty percent (30%) open space. Five percent (5%) density bonus.
  2. Not less than thirty-five percent (35%) percent open space. Ten percent (10%) percent density bonus.
  3. Not less than forty percent (40%) percent open space. Fifteen percent (15%) percent density bonus.
  4. Not less than forty-five percent (45%) percent open space. Twenty percent (20%) percent density bonus.
  5. Not less than fifty percent (50%) percent open space. Twenty-five percent (25%) percent density bonus.
  6. Not less than fifty-five percent (55%) percent open space. Thirty-five percent (35%) percent density bonus.
  7. Not less than sixty percent (60%) percent open space. Forty-five percent (45%) percent density bonus.
  8. Preserving natural features such as wooded areas, wetlands, floodplains, and unique vegetation areas will qualify for up to a thirty percent (30%) density bonus, depending on the degree of preservation.
  9. If, due to the use of setbacks, vegetative screen, topographic relief, or a combination of such elements, no dwelling units or other developed portion of the PUD, other than the entrance road, are visible from any perimeter road, will qualify for a bonus density of up to twenty-five percent (25%) percent.
  10. Providing a natural vegetative buffer of at least one hundred (100) feet around the perimeter property lines of the PUD will qualify for a density bonus of up to twenty-five percent (25%).
  11. Including a restriction in the PUD agreement prohibiting the removal of tree cover (except for dead and diseased trees) beyond a fifty (50) foot distance from all dwelling units (except for roads or other necessary utility and stormwater management elements of the MD/PUD) will qualify for up to a ten percent (10%) density bonus.
  12. Providing passive recreation opportunities for the residents of the PUD, including trails, boardwalks, nature interpretive markers, and similar amenities throughout the site will qualify for up to a ten percent (10%) density bonus.
  13. Combining three (3) or more parcels under different ownership for the PUD project will qualify for up to a ten percent (10%) density bonus.
  14. Use of innovative storm water management techniques (as determined by the Township Engineer), such as rain gardens, pervious surface paving, vegetative swales, or green roofs, will qualify for up to a twenty percent (20%) bonus.
- B. The following development regulations apply to PUDs of ten (10) acres or over where a density bonus is to be awarded:
1. Principal and accessory buildings shall maintain at least a fifty (50) foot setback from the boundaries of the MD/PUD site, unless a greater distance is required by this Chapter.

2. Lot sizes for detached single-family dwellings may be reduced from the minimums specified elsewhere in this Chapter, but shall not be less than seven thousand (7,000) square feet in area. There shall be no minimum yard setback requirements; provided, no principal buildings shall be closer than ten (10) feet to any other building.
3. No building site shall be permitted to gain direct access to any public or private street not constructed or planned as part of the MD/PUD.
4. Natural vegetation on single-family residential lots shall be preserved to the greatest degree possible:
  - a. The total clearance zone area of any single-family residential lot shall be limited to that necessary to construct buildings, drives, sidewalks, or other facilities or structures, but in any case, shall be limited to fifteen thousand (15,000) square feet, or forty percent (40%) of the area of the lot, whichever is less; unless density bonus points have been granted based on more restrictive requirements, in which case the more restrictive shall prevail.
  - b. In any case, the Planning Commission, as part of Final Plan review, may allow additional lot clearance zone area upon finding that the applicant has demonstrated that the limitation does not allow sufficient area for building and lot development, due to the presence of significant natural features or other limitations related to the physical features of the site.
  - c. Clearance zone areas shall be clearly staked on each lot by the developer and approved by the Zoning Administrator prior to any construction activity or land clearing and no disturbance of the site shall take place outside of the clearance zone. This does not prohibit, however, thinning of overgrowth and removal of noxious species.
5. A development setback of at least seventy-five (75) feet shall be provided from any abutting perimeter street not part of the MD/PUD. No building envelope shall be permitted within the development setback.
  - a. No native or natural vegetation shall be removed from the development setback, except for that necessary for entrance streets or private roads. The Planning Commission may modify this requirement; provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the intent of this Chapter.
  - b. No grading or changes in topography shall be permitted, except as may be necessary to construct entrance streets or private roads, or provide screening as required in this Chapter.
  - c. The required seventy-five (75) foot setback may be reduced to not less than twenty-five (25) feet; provided a year-round, opaque, natural screen is present or installed which shall afford the desired screening of the development from the street view. A screen shall consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof, but shall not include fences or walls.
  - d. The development setback area shall qualify as meeting the required open space.



**SECTION 10.12 OPEN SPACE DEVELOPMENT OPTION**

- A. Open Space Development Option.
1. Intent. This Section is intended to carry out the provisions of “open space preservation” Section of the Michigan Zoning Enabling Act.
    - a. Lands satisfying certain criteria may be developed, at the option of the landowner, with the same number of dwellings on a smaller portion of the land that could otherwise be developed under existing ordinances, laws, and rules on the entire land area.
    - b. This development option is intended to accommodate parcels of land that have physical assets such as tree stands, unique topographic conditions, water and/or swamp areas, or other readily identifiable land characteristics which should be preserved, or parcels where such development could provide a transitional area of low density residential use between a higher density residential use or any nonresidential use of land. Land designated for this development option must either be platted under the provisions of the Michigan Land Division Act or must comply with the Condominium Act (Act 59 of 1978, as amended) and all township ordinances.
  2. Process. For a landowner to exercise the open space preservation option of the Michigan Zoning Enabling Act, the land involved must be processed as a Planned Unit Development.



## CHAPTER 11 SPECIAL LAND USES

### SECTION 11.01 SCOPE

This Chapter provides a set of procedures and standards for special uses of land or structures that, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the Township. The requirements and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of Bertrand Township. For purposes of this Ordinance, all Special Land Uses are subject to the requirements and standards of this Chapter.

### SECTION 11.02 APPLICATION AND REVIEW PROCEDURES

- A. An application shall be submitted through the Clerk, accompanied by:
  - 1. The payment of a fee as established by the Township Board.
  - 2. A completed application form, as provided by the Township, including proof of ownership or interest in the property in question.
  - 3. A complete site plan in eight (8) copies, as specified in Chapter 12. The applicant has the option of requesting Preliminary Site Plan review; however, approval of the Special Land Use shall be considered only during Final Site Plan review.
- B. Applications for a Special Land Use shall be submitted with a site plan at least thirty (30) days prior to the next Planning Commission meeting at which the application is to be considered.
- C. The Planning Commission shall hold a public hearing on the application in accordance with the Michigan Zoning Enabling Act. The Planning Commission shall review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the Township's planner, engineer, or other parties, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions imposed.
- D. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which in the opinion of the Zoning Administrator might reasonably result in favorable action upon resubmittal.
- E. Approval of a Special Land Use shall be valid for one (1) year from the date of approval. However, a permit for a Special Land Use may be valid for a longer period of time, provided that the applicant has complied with all conditions required by the Planning Commission. If the development is not under construction and showing substantial progress toward completion or began operation of the approved activity the approval shall be considered null and void, except as noted below.
  - 1. The Planning Commission may grant one (1) six (6) month extension of this time period, provided the applicant requests the extension in writing prior to the date of the expiration of the Special Land Use approval.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.

3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.
- F. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification requirements for the original approval.

### SECTION 11.03 GENERAL STANDARDS

- A. In addition to the requirements established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Section 12.07, and conditions, as authorized and governed by Section 12.08 may be placed upon a Special Land Use.
- B. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use:
1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed;
  2. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
  3. Not create excessive additional requirements at public cost for public facilities and services; and
  4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons or property in the vicinity, or the general welfare, by reason of excessive effects of traffic, noise, smoke, fumes, glare, or odors or other effects determined relevant by the Planning Commission.
- C. The Planning Commission may stipulate additional conditions and safeguards as deemed necessary to accomplish the General Standards and Specific Requirements of this Chapter. Failure to comply with these conditions may result in the revocation of the Special Land Use approval, pursuant to Section 11.02, F.

### SECTION 11.04 SPECIAL LAND USE SPECIFIC REQUIREMENTS

The General Standards of Section 11.03, B, are basic to all Special Land Uses. The specific and detailed requirements set forth in this Section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

- A. **Agricultural service establishments in the AG District.**
1. Minimum lot or parcel size shall be two (2) acres and have a minimum lot frontage of three-hundred thirty (330) feet.
  2. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Section 13.01.
  3. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
  4. All buildings shall be set back a minimum of fifty (50) feet from any lot line.

5. All agricultural service establishments shall be located at least one hundred (100) feet from any driveway affecting access to a farm dwelling or field, and at least three hundred (300) feet from any single-family dwelling.

**B. Accessory apartments as part of a commercial or industrial use.**

1. The gross floor area for a residential unit shall not exceed fifty percent (50%) of the gross floor area of the commercial or office uses to which they are accessory. A residential unit shall not exceed 950 square feet when accompanying an industrial use. Residential units shall be limited to one for both.
2. Residential dwelling units shall meet the minimum floor area requirements applicable to multiple family units in Section 6.03.
3. Separate parking facilities will be provided for all dwelling units in accordance with the requirements of Section 13.02.

**C. Bed and breakfast establishments.**

1. The establishment shall be serviced by approved public or private water and sanitary sewer services.
2. The establishment shall be located on property with direct access to a public road.
3. These uses shall only be established in detached single-family dwellings which shall be the principal residence of the operator.
4. Parking is required in accordance with Section 13.02.
5. The lot on which the establishment is located shall meet the minimum lot size requirements of the Zone District.
6. The total number of guest rooms in the establishment shall not exceed seven (7), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed a total of ten (10) guest rooms.
7. Exterior refuse storage facilities beyond what might normally be expected for a detached single-family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.
8. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.
9. Meals may be served only to the operator's family, employees, and overnight guests.

**D. Bulk oil, gasoline, liquid propane gas, and compressed natural gas distribution and storage facilities (including warehousing and transport facilities).**

1. The minimum lot size shall be ten (10) acres for bulk oil and gasoline. The minimum lot size for liquid propane or compressed gas shall be two (2) acres.
2. The lot shall be located so that at least one (1) side abuts a primary road, as designated by the County Road Department or a State trunkline and all access shall be from that road.
3. Storage shall be located at least seventy five (75) feet from any property line, or five hundred (500) feet from any Residential District, or a greater distance if required by applicable State or Federal regulations.

4. Fencing, lighting, security, and other appropriate conditions may be imposed which are more stringent than, but not inconsistent with, Federal or State requirements.
5. Outdoor storage of empty tanks for sale or lease to the public shall be permitted only on the same premises and not within any required setback area.
6. The site shall be designed to permit easy access by emergency vehicles.
7. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
8. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.
9. Provide evidence of all local, state and federal permitting requirements and all necessary permits.
10. Provide written approval from the local Fire Chief.

**E. Campgrounds, public or private, including travel trailer parks.**

1. Minimum lot size shall be three (3) acres. The lot shall provide direct vehicular access to a public street or road.
2. Public stations, housed in all-weather structures, containing adequate water outlet, waste container, toilet and shower facilities shall be provided.
3. No commercial enterprise shall be permitted to operate on the lot, except that a convenience shopping facility may be provided on a lot containing more than eighty (80) sites. This convenience store, excluding laundry and similar ancillary uses, shall not exceed a gross floor area of one thousand (1,000) square feet.
4. Each site shall contain a minimum of one thousand five hundred (1,500) square feet and shall be set back at least seventy-five (75) feet from any public access drive, right-of-way or property line.
5. Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway of at least twenty-four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any street or road.
6. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County health regulations.
7. At least fifteen (15) feet shall be provided between all travel trailers and tents.

**F. Cemeteries.**

1. The site shall have a minimum area of five (5) acres and a minimum frontage of two hundred (200) feet.
2. The cemetery shall be located on property with direct access to a public road.
3. Buildings, including buildings for storage of equipment, shall be set back two hundred (200) feet from an existing Residential District.
4. Drives and parking areas shall be at least fifty (50) feet from any adjacent property line.

**G. Commercial Storage Warehouses**

1. Minimum lot area shall be two (2) acres.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family detached dwelling in the R-2 District.
3. Buildings shall be separated by at least 24 feet.

**H. Drive-through facility other than a restaurant (e.g. bank, credit union, pharmacy, dry cleaner).**

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way nor does it interfere with internal circulation of vehicles. A minimum of four (4) stacking spaces for each drive-through station shall be provided.
2. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
3. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward adjacent property.
4. Access driveways shall be at least fifty (50) feet from any adjacent property line.
5. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

**I. Earth removal, quarrying, gravel processing, mining and/or related mineral extraction businesses.**

1. Intent. In recognition that certain valuable natural resources may exist in the Township that can only be used if extracted from the earth, and recognizing that mineral extraction, by its nature, can present very serious consequences that can be devastating to the environment, the value of property in the community, the health and safety of the people and the general public welfare, earth removal, quarrying, gravel processing, mining and related mineral extraction businesses and uses are only permitted in the Township where the applicant can demonstrate that the value to the public generally of removal of the natural resources substantially outweighs the negative impacts of the proposed use upon the public health, safety and welfare.
2. Evaluation. Because of the special nature of mineral extraction uses, approval shall only be given by the Township Board, after a public hearing is held by the Planning Commission and the Township Board has received the recommendation of the Planning Commission. In evaluating a request for approval of such a use as a Special Land Use (where specifically provided for in this Ordinance), the Planning Commission and the Township Board shall balance all the evidence and information submitted to it by the applicant and by others at or before the required public hearing. Prior to the approval by the Township Board of a Special Land Use permit for earth removal, quarrying, gravel processing, mining and/or related mineral extraction businesses in any area of the township, said Township Board shall be satisfied the following conditions and limitations are, or shall be, strictly complied with in addition to any other requirements contained in the township zoning ordinance or in any other township ordinance affecting such operations.

3. Application. In addition to the requirements for Special Land Use and Site Plan review applications, the following shall be submitted with an application for earth removal, quarrying, gravel processing, mining and/or related mineral extraction businesses:
  - a. A written legal description of all of the lands proposed for the use.
  - b. The required site plan for mineral removal showing compliance with this Chapter shall be drawn and sealed by a registered civil engineer, and shall include all required elements for site plans in Chapter 12 and the following, at a minimum:
    - i. Shading indicating the extent of land area on which mineral removal operations and activities will take place;
    - ii. the location, width, and grade of all easements or rights-of-way on or abutting the lands;
    - iii. the location and nature of all structures on the lands;
    - iv. the location and direction of all water courses and flood control channels which may be affected by the mineral removal operations;
    - v. existing elevations of the lands at intervals of not more than five (5) feet;
    - vi. typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;
    - vii. mineral processing and storage areas;
    - viii. proposed fencing, gates, parking areas, and signs;
    - ix. streets for ingress to and egress from the lands, including on-site streets, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;
    - x. a map showing access routes between the subject lands and the nearest County Primary street;
    - xi. areas to be used for ponding;
  - c. An excavation sequence map that shows the area proposed for excavation, divided into “cells” of 10 acres in area, or less. This map shall show the size of each cell and the proposed order of excavation.
  - d. A narrative description and explanation of the proposed mineral removal operations and activities; including the date of commencement, proposed hours and days of operation, estimated by type and quantity of mineral materials to be removed, estimated date of completion of extraction and reclamation, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to ensure compliance with the conditions of this subsection.
  - e. An end use plan including the following:
    - i. A written description of planned site rehabilitation and end use(s), including potential methods of accomplishment and phasing;
    - ii. A plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end-use(s); and



- iii. A description of the proposed methods or features which will ensure that the end-use(s) are feasible and can comply with all applicable requirements of this Ordinance.
  - f. Copies of permits from the Michigan Department of Environmental Quality or other applicable agencies, as required.
  - g. The result of soil boring tests as required by paragraph 7, below, if applicable.
  - h. If the application is for an expansion of an excavation operation that existed prior to the adoption of this Ordinance, the application shall show how the pre-existing portions of the excavation area can be brought up to the requirements of this Ordinance, including an end use plan for the entire site.
  - i. The Planning Commission and/or Township Board may require an environmental impact statement, engineering data, or other additional information concerning the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.
4. Location
- a. All such operations shall be located on a primary road, as defined by the County of Berrien or the Michigan Department of Transportation, unless applicant provides a Roadway Structural Impact Study, conducted by a licensed Civil Engineer, for approval by the Planning Commission.
  - b. Sufficient setbacks of mining, excavation and extraction activities shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No excavation or restoration earth moving operations shall be permitted closer than 150 feet from adjacent property lines or road right-of-way lines. Larger setbacks may be required by the Zoning Board to adequately protect adjoining properties. However, if the adjoining property is also used for mining and excavation operation then the Zoning Board may reduce or eliminate the required setback from the interior boundary line.
  - c. No such excavation operation shall be permitted within 150 feet of the adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation activities shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not or cannot be maintained.
  - d. Any processing plant and its accessory structures and digging or excavating apparatus, and areas where stockpiling and loading of materials occurs, shall be located no closer than 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. All areas used for parking or storage of equipment shall also comply with this requirement.
  - e. No excavation or processing operation shall be located within 300 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission and Berrien County Drain Commissioner, or such other agency having jurisdiction thereof. No mining, excavation, processing, or relating operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

## 5. Sight Barriers

- a. Sight barriers shall be provided along all boundaries of the site that lack natural screening conditions. Barriers shall consist of one or a combination of the following:
  - i. Earth berms constructed to a height of 6 feet above the mean elevation of the centerline of the adjacent public road or 6 feet above the general level of terrain along interior property lines, whichever is greater. Such berms shall have slopes that are not in excess of 1 foot vertical to 4 feet horizontal and shall be entirely planted with grass and trees or shrubs.
  - ii. Plantings of evergreen trees or shrubbery in two staggered rows parallel to the boundaries of the property not less than 8 feet in height at the time of planting, maximum spacing at 10 feet on center within a given row. The trees and shrubbery shall be spaced to provide effective sight barriers and maintained at least 8 feet in height at maturity. They shall totally block view of site at maturity.

## 6. Nuisance Abatement

- a. Noise vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed and maintained to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be located, maintained and operated in such a manner so as to eliminate, as far as practicable, noise and vibrations which are discernible outside the boundaries of the property.
- b. Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation which avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. The operator should proceed with an appropriate and effective dust control action, including but not limited to: as-needed watering or dust palliative application to unpaved travel surfaces; as-needed sweeping of internal roads; paving additional segments of the internal roadway or applying millings; as-needed watering during the crushing operations; or a temporary pause of operations, should excessive winds result in the ineffectiveness of all other dust control measures. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance and meet all Michigan Soil Erosion and Sedimentation Control (SESC) requirements.
- c. Hours - The operation shall be restricted to the hours of 6:30 a.m. until 6:30 p.m. and no extraction or processing operations shall be allowed on Saturdays, Sundays or legal holidays. Material sales and related hauling of materials is permitted on Saturdays between the hours of 7:00 a.m. and 2:00 p.m. The Township Board may require shorter hours of operation of certain activities such as hauling or processing where the proposed use is to be located in or near an area where residential uses exist because of the very serious consequences that noise, dust, and traffic have upon residential uses.
- d. Traffic - The Township Board, after recommendation by the Planning Commission, shall designate routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface, or treated to minimize dust, and the entry road shall be hard surfaced for a distance established by the Township Board (after recommendation by the Planning Commission) to minimize dust, mud, and debris being carried onto the public road. Expansions to adjacent parcels requiring a new or modified Special

Land Use, will be required to have an undercarriage water station for dust migration that meets all state and local requirements.

- e. Fencing - All excavations, pits, pond areas, banks or slopes, steeper than 1:4, shall be fenced and posted with signs around the perimeter prior to commencement of the mining operations and maintained to prevent injury to children or others. Fencing shall be eliminated as expeditiously as possible upon the completion of the mining operations (including reclamation) but no later than six months after completion of the mining operation. Fencing shall be chain link, minimum 4' high.
- f. Security - The Township Board may require on-site security provisions to be provided to protect the site and adjoining areas from danger of unauthorized entry or operations. However, no on-site security shall be permitted which has the effect of creating a condition of noise or glare of lights.
- g. Proper measures, as determined by the Zoning Administrator shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
- h. Maximum Area - Mining, excavating and extraction of minerals shall be limited to no more than two cells of 10 acres each or less at all times. No additional cells may be opened for excavation until the Township Board, after recommendation by the Planning Commission, has approved the closing and reclamation of completed cells so that no more than 2 cells are active at any one time in conformity to the approved site plan. For each request to begin excavation within a cell, the operator shall submit to the Planning Commission proof of closing and reclamation of at least one cell, plus a map showing the cell(s) proposed for excavation.
- i. The approved Special Land Use shall be reviewed annually by the Planning Commission for comparison of actual progress to the applicant's proposals.
- j. If the application for earth removal, quarrying, gravel processing, mining and/or related mineral extraction businesses is an expansion of an operation that existed prior to the adoption of this Ordinance, the entire operation shall be brought into conformance with this Ordinance. However, the Township Board, after recommendation by the Planning Commission, may allow some or all of the existing operation to be exempt from these requirements, but only if one or more the following findings are made:
  - i. Bringing any portion or all of the existing operation into conformance would substantially extend the period of time necessary to complete the overall extraction operation;
  - ii. Bringing any portion or all of the existing operation into conformance would lead to conflicts with or have negative impacts upon uses on adjacent properties;
  - iii. A request to exempt part or all of the existing operation from the requirements of this Ordinance is not based solely upon the cost of bringing the existing operation into compliance.
- k. The Township Board, after recommendation by the Planning Commission, may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, time limits, weed controls, erosion and sedimentation controls,

fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.

1. There shall be a condition imposed with every Special Land Use permit in this category that the Township Zoning Administrator or his designee shall be authorized to go onto the property at any time during the permitted hours of operation on 48-hours advance notice to inspect the operation.
7. Reclamation of Mined Areas
- a. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the completion of mining or excavation of an area. Reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any cell as shown on the excavation sequence map. Substantial completion of reclamation and rehabilitation shall be affected within 1 year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
  - b. The following standards shall control reclamation and rehabilitation:
    - i. All excavation shall be either to a water-producing depth of not less than 10 feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to ensure:
      - a) That the excavated area shall not collect stagnant water and not permit the same to remain therein; or,
      - b) That the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion and which will be generally compatible with the adjoining land area.
    - ii. The banks of all excavations shall be sloped to the waterline in a water-producing excavation and to the pit floor in a dry operation, at a slope which shall not be steeper than 1 foot vertical to 4 feet horizontal. The finished grade under the high-water line should not be steeper than the slope over the high-water line until the water is greater than six (6) feet in depth.
    - iii. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water except where streets, beaches, or other planned improvements are to be completed within a 1-year period. Topsoil shall be applied to a minimum depth of 4 inches.
    - iv. Vegetation shall be restored by seeding of grasses and the planting of trees or shrubs to establish a permanent vegetation cover on the land surface and to minimize erosion.
    - v. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan, may be retained.
  - c. A performance bond (in a form approved by the Township Board) or cash shall be furnished the Township Clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or

excavating operations. The amount of the guarantee shall be \$15,000 per acre proposed to be mined or excavated in the following 12 months' period plus \$15,000 per acre which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this Ordinance and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one (1) vertical to four (4) horizontal for the purpose of this financial guarantee. In no event shall such financial guarantee be less than \$15,000 per acre, plus accrued interest. All accrued interest will be reinvested into the escrow account.

8. **Soil Borings.**

Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than 150 feet from any boundary of the site. Said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by a consulting engineer retained by the Township. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the within Ordinance to the boundaries of the site.

9. **Liability Insurance**

All operators shall be required to carry personal injury and property damage insurance in the amount of not less than \$1,000,000 for each person or property injured or damaged and not less than \$5,000,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk. The insurance required by this subsection shall be continuously in force until all areas within the parcel(s) to which the permit applies have been fully reclaimed or rehabilitated in conformity to the reclamation plan.

10. **Hearing**

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

**J. Senior housing.**

1. Minimum lot size shall be one (1) acre with a minimum of two thousand, four hundred (2,400) square feet of lot area per dwelling unit.
2. All units in the building shall have a minimum of four hundred and fifty (450) square feet per unit.
3. A covered drop-off and pick-area shall be provided on-site in close proximity to the entrance.
4. Walkways shall be provided from the principal building entrances to the sidewalk, as linkages to adjacent developments (as appropriate) and along the adjacent public or private street(s).
5. Maximum height shall not exceed three (3) stories or fifty (50) feet.

**K. Farm market.**

1. Minimum lot size shall be five (5) acres.
2. The bulk of farm products sold shall be grown or produced on the farm.
3. Farm market activities may include entertainment functions associated with the farm including, but not necessarily limited to, cider processing, donut making, pumpkin carving, hayrides, apple dunking, Christmas tree cutting, and other similar activities commonly associated with farm markets.
4. No activity or structure shall be located within fifty (50) feet of the public road right-of-way.
5. The access drive which shall be wide enough to accommodate two (2) vehicles side-by-side. Two (2) access drives may be required by the Township where a facility is large enough to need additional access points.
6. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
7. Suitable containers for rubbish shall be placed on the premises for public use.
8. Farm markets shall be located no closer than three-hundred (300) feet from any lot line which abuts a residential district or use.
9. Hours of operation shall be limited between the hours of 7:00 a.m. and 10:00 p.m.

**L. Farm Winery**

1. Prior to establishment, the farm winery shall be licensed by the U.S. Treasury, Bureau of Alcohol Tobacco & Firearms and the Michigan Liquor Control Commission. The farm winery shall be at all times in compliance with the regulations of the Michigan Liquor Control Commission, The Michigan Department of Agriculture, the Michigan Department of Natural Resources and Environment, and the liquor control regulations of Berrien County and Bertrand Township.
2. Minimum lot area shall be ten (10) acres.
3. The farm winery parcel shall have a minimum of two (2) planted acres of fruit for the production of wine and wine products maintained according to generally accepted agricultural management practices.
4. The total land area covered by buildings and structures used for wine processing, storage, tasting and sales shall not exceed two (2) percent of the contiguous lot area.
5. The above ground portion of any individual building shall not be greater than twenty-thousand (20,000) square feet.
6. All farm winery buildings shall be setback at least fifty (50) feet from any lot line. If the building is open to the public, it shall be set back at least one hundred (100) feet from any lot line. To encourage the use of existing buildings, these setback requirements may be reduced to the setback requirement of the zoning district, subject to site plan review.
7. All retail sales and tasting areas shall be clearly accessory to the production of wine. Indoor retail sales and tasting areas shall occupy no more than three thousand five hundred (3,500) square feet.
8. Retail sales shall be limited to wine and wine related beverages produced on the farm and agriculturally related products as defined in this Ordinance. Retail sale of food items is

- limited to prepared and prepackaged goods. No food production is allowed on the site, except for sales of products made from produce grown on the farm.
9. The production of wine and wine related beverages is limited to no more than fifty thousand (50,000) gallons per year. Fifty percent of the fruit must be grown on the licensed farm winery.
  10. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
  11. The access drive shall be wide enough to accommodate two (2) vehicles side by side. Two (2) access drives may be required by the Township where a facility is large enough to need additional access points.
  12. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right of way line to the nearest edge of the intersection.
  13. Suitable containers for rubbish shall be placed on the premises for public use.
  14. All construction shall conform to building codes adopted by the Township and other Ordinances where these regulations impose greater standards than State or Federal regulations
  15. All loading activities and parking areas shall be provided on the same premises (off street).
  16. Outdoor speakers are not allowed.
  17. The house of operation shall be restricted to 7:00 a.m. to 10:00 p.m.
  18. The Zoning Administrator will review the approved Special Land Use annually for compliance. With a report being made to the Planning Commission and Township Board as it relates to compliance with the Special Land Use.
  19. Compliance with all applicable Health Department regulations and general health conditions is required.
  20. A Special Use Permit shall comply with the Bertrand Township Zoning Ordinance and all applicable requirements of State and Federal law.
  21. Sale of wine to consumers for on-premises consumption is prohibited.

**M. Group day care homes.**

1. There shall be provided, equipped and maintained, on the premises, a minimum of one hundred and fifty (150) square feet of usable outdoor recreation area for each client of the facility.
2. The outdoor recreation area shall be fenced and screened from any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
3. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
4. For group day care homes, in addition to the above, a Special Land Use Permit shall be issued when all of the following requirements are met:
  - a. The group day care home is not located closer than 1,500 feet, measured along the adjacent roads or streets, to any of the following:
  - b. Another licensed group day care home;

- c. Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979 (MCL 400.701-400.737)
  - d. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Public Health Code, Public Act 368 of 1978 (MCL 333.6101-333.6523)
  - e. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
5. The group day care home shall maintain the property consistent with the visible characteristics of the neighborhood. For the purposes of this Ordinance, this shall mean that there shall be no exterior evidence that the home is used in any manner different from other single-family homes in the neighborhood.
  6. The group day care home shall not exceed 16 hours of operation during a 24-hour time period. The Planning Commission may limit but not prohibit the operation of a group day care home between the hours of 10 PM and 6 AM.
  7. The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.

**N. Home-based business.**

1. Home-based businesses shall not include a vehicle repair or maintenance shop for hire, junk yards or scrapping operations, and uses which must meet special building code requirements such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems, and other similar systems.
2. The following additional information shall be included with the Special Land Use application and associated site plan:
  - a. Type of business.
  - b. Hours of operation.
  - c. Number of employees.
  - d. Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
  - e. Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
  - f. Anticipated traffic levels (customer, delivery vehicles, etc.).
3. The parcel containing the home-based business shall be a minimum of eighty thousand (80,000) square feet and shall contain a single-family dwelling.
4. The home-based business shall be owned and operated by the owner of the dwelling located on the property.
5. No more than two (2) persons who are not residents of the dwelling shall be employed on the premises at which the home business is conducted.
6. Any need for parking generated by the conduct of a home business shall be provided off the road.
7. The home-based business may be conducted entirely within one (1) approved accessory building of up to three percent (3%) of the total land area of the parcel, not exceeding five



thousand (5,000) square feet in area. All activities shall be conducted within that building and no outdoor storage of materials shall be permitted.

8. No more than two (2) commercial grade vehicles are permitted.
9. The accessory building in which the home-based business is conducted shall have a minimum front setback of one hundred fifty (150) feet and shall not be closer than one hundred (100) feet to any side or rear property line.
10. The home-based business shall not result in the alteration of the dwelling or the construction of an accessory building which is not customary to dwellings and residential accessory buildings.
11. One (1) non-illuminated sign may be permitted for the home-based business, not exceeding six (6) square feet in area and not higher than four (4) feet above grade.
12. No merchandise, equipment, or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the principal building.
13. The use shall not constitute a nuisance to surrounding property owners.

**O. Hotels/motels.**

1. Minimum lot area and minimum lot width:
  - a. C District: Fifty thousand (50,000) square feet; lot width shall be one hundred (100) feet.
  - b. All other districts: two (2) acres; lot width shall be two hundred (200) feet.

**P. Intensive livestock operations.**

1. All livestock operations shall be in compliance with the most current GAAMP's requirements.

**Q. Kennels, commercial.**

1. The minimum lot size shall be two (2) acres.
2. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred fifty (150) feet to any adjacent occupied dwelling or any adjacent building used by the public.
3. All principal use activities, other than outdoor dog run areas, shall be conducted within a totally enclosed principal building, and shall be escape proof to the extent possible.

**R. Manufactured Home Community**

1. A manufactured home community shall comply with all applicable procedures and requirements of the Manufactured Home Commission Act, 419 of 1976, and the Michigan Administrative Code.
2. Notwithstanding the requirements of Section 9.03, no lot, principal building, or structure, nor the enlargement of any principal building or structure within a manufactured housing community, shall be hereafter erected unless all of the following requirements are met and maintained in connection with the use of the lot, principal building, structure, or enlargement within the manufactured housing community:

<b>Manufactured Housing Community Lot, Yard, and Building Requirements</b>		
<b>Regulation</b>		<b>Requirement</b>
<b>Manufactured Home Site</b>	Area/Dwelling Unit	5,000 sq. ft.
	Width	40 ft.
<b>Yard Requirements</b>	Front Yard	50 ft. for the community, 5 ft. for individual sites, 40 ft. for non-residential uses
	Side Yard (1/total of 2)	50 ft. for the community, 10/30 for individual sites, 20 feet for non-residential uses
	Rear Yard	50 ft. for the community, 15 ft. for individual sites, 40 feet for non-residential uses
<b>Building Requirements</b>	Maximum Building Height (Stories/ft.)	2/35 for community buildings; 1/15 for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

**S. Migrant agricultural labor housing.**

1. Farm size shall be a minimum of forty (40) contiguous acres in size.
2. The seasonal housing shall be located within five hundred (500) feet of the main structure.
3. Seasonal housing shall only be used for persons and their families directly employed by the owner of the farm dwelling.
4. The rules, regulations, and standards of the State of Michigan governing the licensing and operation of seasonal housing shall apply where any dwelling is used to house one (1) or more seasonal workers.
5. Seasonal housing shall be located at least one hundred (100) feet from any public road, at least two hundred (200) feet from any other property line and four hundred (400) feet from any dwelling on adjacent property.
6. No newly constructed seasonal housing unit shall have more than one (1) story nor accommodate more than one (1) family.
7. To ensure adequate access for emergency vehicles and personnel, no seasonal housing unit shall be located closer than thirty (30) feet to a driveway or private road and no closer than ten (10) feet to any other building or structure.
8. All construction shall conform to the building codes adopted by the Township and other Ordinances where these regulations impose greater standards than State and Federal regulations.
9. Any mobile seasonal housing that is not occupied by seasonal workers for three (3) consecutive seasons shall be removed by the owner within six (6) months.

**T. Mortuary or funeral home.**

1. Minimum lot area shall be eighty thousand (80,000) square feet with a minimum width of two hundred (200) feet.
2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
3. A caretaker's residence may be provided within the principal building.
4. The proposed site shall front upon a paved public street. All ingress and egress shall be from this thoroughfare.
5. Crematory services are not permitted in the Commercial District.

**U. Motor freight terminal, including garaging and maintenance of equipment.**

1. Minimum lot size shall be three (3) acres.
2. At least one (1) property line shall abut a paved County Primary road. The ingress and egress for all vehicles shall be directly from the paved county road.
3. The principal and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.
4. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.

**V. Multiple family dwellings.**

1. In addition to the minimum lot size in the zoning district, there shall be an additional three thousand (3,000) square feet per dwelling unit.
2. Minimum floor area per dwelling unit shall be as follows:

1 bedroom	650
2 bedroom	750
3 bedroom	900

100 square feet for each bedroom over three (3).
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

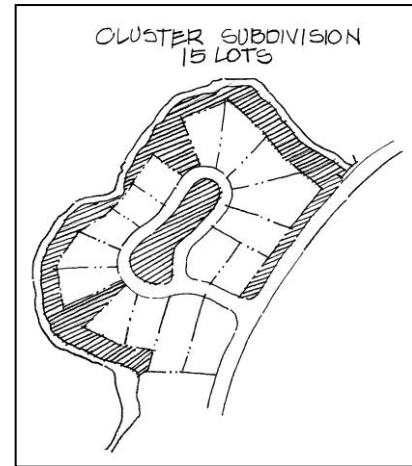
**W. Open Air Businesses.**

1. Minimum lot area shall be eighty thousand (80,000) square feet.
2. Minimum lot width shall be two hundred (200) feet.
3. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. All open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
5. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.

6. All lighting shall be shielded from adjacent residential areas.
7. No display area shall be located within twenty (20) feet of a public road right-of-way line.

## X. Open Space Developments.

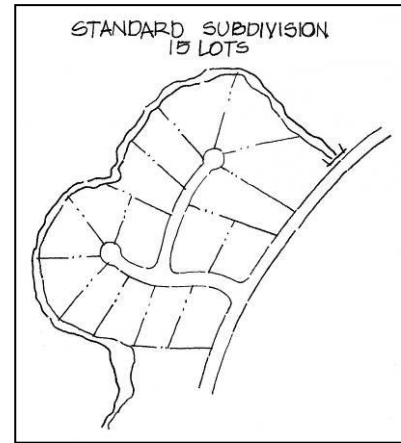
1. **Description and Purpose.** The purpose of an Open Space Development (OSD) is to permit greater flexibility in development than is generally possible under standard District regulations. The intent of the regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the township, ensuring access to open spaces, foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be developed but will be preserved as a result of the OSD, and other design objectives intended to foster an improved living environment (see example, Figure 12).



**Figure 12: OSD Subdivision**

2. **Qualifying Conditions**
  - a. The tract of land for which a OSD application is received must be either in one (1) ownership or the subject of an application filed jointly by the owners of all affected properties.
  - b. The applicant must demonstrate that the property proposed for the OSD contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which could be otherwise be developed but will be preserved as a result of the OSD.
  - c. Only traditional farming activities (except intensive livestock operations) and single-family dwellings and their accessory uses may be approved as part of the OSD.
3. **Review Procedures**
  - a. **Sketch Plan Approval**
    - i. To be considered as an OSD the applicant shall be required to first receive approval of a sketch plan in accordance with the requirements of this Chapter.
    - ii. The application materials shall include twelve (12) copies of all of the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
      - a) Written documentation that the proposal meets the standards of this subsection.
      - b) If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
      - c) Arrangement and area calculations for open space, including upland and wetland open space areas.
      - d) A plan, drawn to scale, that indicates the area of all lots and open spaces, dimensions of public or private streets, easements, etc.

- iii. Parallel Plan (see example, Figure 13): The maximum base density and number of dwelling units permitted in the OSD shall be determined through the completion and submission of a parallel plan which shall indicate the number of dwelling units that may be developed under the existing zoning classification. The parallel plan shall meet the following minimum requirements:



**Figure 4: Parallel Plan**

- a) The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each indicated lot and/or dwelling unit. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan.
  - b) All lots or buildings shown on the parallel plan shall be located on buildable lots, which, for the purposes of this Section shall mean lots or building areas that have an area of sufficient size and shape to accommodate the proposed principal building septic and well systems (where no public sanitary sewer or water system is to be used), and required driveways, streets, or other means of permitted access.
  - c) Areas of wetlands, water bodies, and other unbuildable areas shall not be included within buildable areas, but may be included in the lot area calculations.
  - d) While intended as a conceptual plan, the Planning Commission shall only approve the parallel plan after a determination is found that the submitted plan would otherwise be approvable under current Township ordinances and review considerations.
- b. The Planning Commission shall review the sketch plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the sketch plan.
4. Final Site Plan Approval
- a. After receiving approval of a sketch plan the applicant shall within one (1) year submit a final site plan to the Planning Commission.
  - b. The final site plan may be for either the entire project or for one (1) or more phases.
  - c. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
    - i. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file the application.
    - ii. If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.

- iii. Arrangement and area calculations for open space, including upland and wetland open space areas.
  - iv. A completed application form, supplied by the Zoning Administrator.
  - v. A final site plan meeting the requirements of Chapter 12.
  - d. Failure to submit a final site plan for approval within the one (1) year period shall void the previous sketch plan approval and a new application shall be required to be submitted and approved in accordance with these provisions.
  - e. The Planning Commission shall deny, approve, or approve with conditions, the final site plan for the OSD.
  - f. Major changes in the final site plan shall be submitted to the Township pursuant to the procedures applicable to the original application.
5. Density Bonus: In order to preserve the maximum amount of open space, an OSD may permit an increase in the number of dwelling units above the base density established in the parallel plan.
- a. In no case shall the density bonus exceed fifty percent (50%) of the base density.
  - b. The OSD may qualify for density bonuses in accordance with the following:

Facility/Open Space Provided		Density Bonus
Open Space	60% open space	10%
	70% open space	20%
Township or Public Sanitary Sewer Service		30%
Township or Public Water Service		20%

- c. For the purposes of this Section, community sanitary sewer service shall be defined as all aspects of a complete system required to properly collect, treat, and dispose of wastewater from all of the individual dwelling units or other buildings within the OSD, including all pumps, pipes, laterals, controls, valves, treatment units, and other equipment necessary to collect, treat, and dispose of wastewater at a central location.
  - d. Township water service shall be defined as all aspects of a complete system required to draw water from a groundwater source, including all pumps, pipes, laterals, controls, valves, and other equipment necessary to provide potable domestic water to all of the individual dwelling units or other buildings within the OSD from a central location or water source.
6. Design Principles: The overall intent of the Open Space Development regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the community, ensuring access to open spaces, preserving natural features, and other design objectives intended to foster an improved living environment. To this end the following general guidelines will be considered by the Planning Commission in evaluating proposed Open Space Developments.
- a. Open Space Requirements: Any open space provided in the OSD shall meet the following considerations and requirements:

- i. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, so that all properties within the entire OSD may utilize the available open space.
  - ii. The OSD shall have a minimum of fifty percent (50%) open space. Any area used in the calculation of required open space shall have a minimum dimension of fifty (50) feet.
  - iii. All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.
  - iv. All open space shall be in the joint ownership of the property owners within the OSD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.
- b. Development Setback
- i. Any building area, which for the purposes of this Section shall mean any lot on which a principal use is located, shall be located at least two hundred (200) feet from any public street right-of-way not constructed as part of the OSD.
  - ii. No native or natural vegetation shall be removed from the two hundred (200) foot setback, nor any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may require natural vegetation to augment the natural buffer.
  - iii. The Planning Commission may reduce this setback if existing landscaping provides a natural screen, or the proposed development provides a landscape screen. In any case, the setback shall be not less than one hundred (100) feet. The one hundred (100) foot landscape screen shall meet all of the following minimum requirements:
    - a) Occupy at least seventy percent (70%) of the lineal distance of the property line abutting any public street right-of-way.
    - b) Be on a strip of unoccupied land at least fifty (50) feet in depth.
    - c) Have at least fifty percent (50%) opacity from the roadside view at the time of planting.
    - d) Consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
  - iv. OSD sites abutting more than one (1) public street shall be permitted to reduce the setback on the shortest side of the abutting streets to one hundred (100) feet without a natural screen. No native or natural vegetation shall be removed from the one hundred (100) foot setback, nor any grading or changes in topography occur, except that as may be necessary for entrance roads or utilities.
- c. Open Space Areas

- i. Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.
      - ii. Open space should generally be used to group areas of residential neighborhoods as clusters of housing units. This is intended to avoid the suburban development type normally found in urbanized areas. Generally, neighborhood clusters should have not more than eight to ten (8-10) units per cluster for projects of less than fifty (50) dwelling units and not more than ten to fifteen (10-15) for projects with fifty (50) or more dwelling units.
      - iii. The Open Space Development should be designed with due regard for views from adjacent roadways as well as adjacent properties. Where possible, substantial setbacks from adjacent development should be provided, except where internal roadways are designed to connect to adjacent properties for the purposes of providing a network of internal connections between properties.
      - iv. Open space within the development should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space segments along the internal roadways will be considered a high priority by the Township. These areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. These areas may, however, incorporate trails or other internal pedestrian circulation paths.
    - d. The overall design of the Open Space Development should emphasize the rural character of the township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight street segments and rows of homes.
7. Review Standards
  - a. The following review standards will be used by the Planning Commission in its consideration of an OSD. Before these developments may be approved the Planning Commission shall find:
    - i. That the OSD meets the stated purposes of this Subsection
    - ii. The OSD is in substantial compliance with the design principles of this Section.
    - iii. That the OSD does not substantially alter the character of the general neighborhood in which the development is proposed.
    - iv. That the location of the buildings of the OSD do not unduly impact other single-family uses in the vicinity of the proposed development.
    - v. That the OSD preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land.
    - vi. That the OSD can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use.

**Y. Public and utility service buildings.**

1. Buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.



2. Any building shall comply with the yard setback requirements for principal buildings of the District in which it is located.

**Z. Recreation facilities, indoor and outdoor.**

1. Principal buildings shall be set back a minimum of one hundred (100) feet from any Residential District or use property line.
2. For uses exceeding a seating capacity of two-hundred and fifty (250) persons, a traffic impact study may, at the Planning Commission's discretion, be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
3. Access driveways shall be located no less than one hundred (100) feet from the nearest part of the intersection of any street or any other driveway.

**AA. Restaurants with drive-through facilities.**

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into a private or public right-of-way, with a minimum of ten (10) stacking spaces. Stacking spaces shall be located so as not to interfere with vehicular circulation, access to parking spaces, and egress from the property by vehicles not using the drive-through facility.
2. In addition to parking space requirements, at least three (3) parking or waiting spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Any paved area shall have minimum side and rear yard setback of twenty (20) feet.
4. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the access.
5. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
6. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
7. Outdoor menu boards shall be located behind the front building line.

**BB. Retail establishments over ten thousand (10,000) square feet gross floor area.**

1. Public access to the site shall be located at least one hundred (100) feet from any public or private street intersection and not less than fifty (50) feet from the nearest part of any other driveway, as measured from the nearest right-of-way line to the nearest edge of the access.
2. Any principal building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
3. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
4. No mechanical rooms or loading area shall be located nearer than fifty (50) feet to any Residential District or use property line.

**CC. Retail building supplies and garden and landscape supply stores.**

1. Minimum lot size shall be two (2) acres.
2. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
3. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.
4. All loading activities and parking areas shall be provided on the same premises (off-street).
5. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
6. Ingress and egress to the lot shall be from a paved County Primary road.

**DD. Salvage or junk yards.**

1. Minimum lot size shall be five (5) acres.
2. Applications shall require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
3. The site shall be provided with suitable access to a paved primary street to ensure safe, direct transport of salvage to and from the site.
4. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.
5. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Any fence or wall shall be continuously maintained in good condition and shall contain only incidental signs.
6. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
7. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
8. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
9. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
10. All portions of the storage area shall be accessible to emergency vehicles.
11. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
12. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and

other similar substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.

13. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
14. All fences shall be set back a minimum of fifty (50) feet from any Residential District or use property line.
15. All salvage activities shall take place within an enclosed building.
16. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to between the hours of 8:00 a.m. and 6:00 p.m.
17. The Planning Commission may impose other conditions, such as greenbelts, landscaping, and other items, which have a reasonable relationship to the health, safety and general welfare of the Township. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

**EE. Sexually Oriented Businesses.**

1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several are concentrated in certain areas, or when located in proximity to a Residential District, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities which are prohibited in other Sections of the Zoning Ordinance.
2. Sexually oriented businesses shall comply with the following requirements:
  - a. The sexually oriented business shall not be located within a one thousand (1,000) foot radius of any other sexually oriented business or be located on a lot or parcel within one thousand (1,000) feet of a public park, school, child care facility, or place of religious worship, measured from the lot lines of the lots or parcels containing each use.
  - b. No sexually oriented business shall be located within one thousand (1,000) feet of any Residential District, or within one thousand (1,000) feet of any Open Space Development (OSD), or other development which contains dwellings.
  - c. Any sign or signs proposed for a sexually oriented business must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
  - d. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:
    - i. "Persons under the age of 18 years are not permitted to enter the premises."  
and,

- ii. “No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.”
- e. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
- f. All off-street parking areas shall be illuminated from at least ninety (90) minutes prior to sunset to at least sixty (60) minutes after closing.
- g. No sexually oriented business shall be open for business prior to ten o'clock a.m. 10:00 a.m., nor after 10:00 p.m. However, employees or other agents, or contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.
- h. All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan or have other similar qualifications which must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the Township, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
- i. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission, as provided herein.

**FF. Two-family dwellings.**

- 1. Minimum lot size shall be as required in the zoning district for the first two (2) dwelling units.
- 2. Minimum dwelling unit usable floor area shall be one thousand (1,000) square feet.

**GG. Vehicle service stations and vehicle repair, major.**

- 1. Minimum lot area shall be eighty thousand (80,000) square feet.
- 2. Minimum lot width shall be two hundred (200) feet.
- 3. No more than one (1) curb opening shall be permitted for every one hundred (100) feet of frontage (or major fraction thereof) along any street, with a maximum of one (1) per street when located on a corner lot, and two (2) for any other street.
- 4. No drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or more than twenty-five (25) feet to any adjacent Residential District property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
- 5. A raised curb six (6) inches high shall be constructed along the perimeter of all paved and formal landscaped areas.
- 6. All areas for driving and parking shall be paved.

7. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifty (50) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.
8. When adjoining a Residential District parking and storage areas shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
9. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence. No outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles (not to exceed a maximum of five (5) vehicles) shall not be permitted for a period exceeding ten (10) days.
10. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the Planning Commission. If the use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the Planning Commission.
11. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

**HH. Vehicle wash establishments, either self-serve or automatic.**

1. All washing activities must be carried on within a building.
2. Vacuuming activities may not be conducted in any required yard.
3. Each wash bay shall provide a minimum of three (3) stacking spaces.
4. Each self-service vacuum station shall provide at least one (1) stacking space.

**II Commercial WECS and WECS Testing Facilities associated with a Commercial WECS.**

1. Site Requirements
  - a. Compliance with General Requirements. In addition to the requirements of this Section, all requirements of Section 3.30 C, General Requirements for All WECS, shall be met.
  - b. Minimum Area. Minimum project area shall be twenty (20) acres. Multiple parcels may be assembled to create a project area, but all parcels shall be contiguous along adjoining property lines for no less than fifty (50) feet. All setback requirements shall be measured from the project limits.
  - c. Height. The permitted maximum height of a WECS or WECS Testing Facility shall be two hundred and fifty (250) feet, subject to setback limitations. Towers shall be required to be less than two hundred and fifty (250) feet in height under the following circumstances:
    - i. Where setbacks require a lesser height per subparagraph d, below.
    - ii. When state or federal regulations require a lesser height.
    - iii. As part of special land use review, a determination is made that lesser tower heights would be more appropriate for a certain area of the community.
  - d. Setbacks. No part of a WECS or Testing Facility (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS

- towers shall be setback from the closest property line a minimum distance equal to one and a half (1.5) feet for every one (1) foot of WECS height. No portion of a WECS or WECS Testing Facility shall be located within thirty (30) feet of an above ground utility line.
- e. Separation. Each WECS shall be separated from any other WECS a distance equal to or greater than the diameter of the largest rotor of any two adjacent WECS.
  - f. Rotor Clearance. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, overhead power line, land or tree.
  - g. Tower Access. To prevent unauthorized climbing, WECS and Testing Facility towers must comply with one of the following provisions:
    - i. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
    - ii. A locked anti-climb device shall be installed on the tower.
    - iii. A tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
  - h. Signs. In addition to signs allowed by Article 4, each WECS and WECS Testing Facility shall have one sign, not to exceed two (2) square feet in area, posted near the base of the tower. The sign shall contain the following information:
    - i. Warning high voltage.
    - ii. Manufacturer's name.
    - iii. Emergency phone number.
    - iv. Emergency shutdown procedures.
  - i. Utility Company Interconnection (Interconnected WECS).
    - i. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the Township.
    - ii. All wiring from the WECS facility to the connection to the utility grid shall be underground.
2. Application Requirements. In addition to the application requirements for special land uses in Chapter 11 and for site plans in Chapter 12, an application for a Commercial WECS or WECS Testing Facility shall be accompanied by the following:
- a. Site Plan requirements:
    - i. Lot lines and dimensions. All exterior lot lines of the project area shall include bearings and distances.
    - ii. Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
    - iii. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS and/or Testing Facility. The boundaries shall

- include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.
- iv. Existing and proposed setbacks of all WECS and other structures located on the project site.
  - v. Sketch elevation of the premises accurately depicting the proposed WECS installation and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
  - vi. Access road to the WECS and Testing Facility with detail on dimensions, composition, and maintenance.
- b. Planned security measures to prevent unauthorized trespass and access.
  - c. WECS and Testing Facility Maintenance Programs – Provide a description of the maintenance program used to maintain the WECS and Testing Facility, including removal when determined to be obsolete.
  - d. Shadow flicker studies, to show how shadow flicker can be minimized or eliminated.
  - e. A copy of the manufacturer’s installation instructions and blueprints shall be provided to the Township.
    - i. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECS and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township.
    - ii. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
  - f. Additional detail as required by this Section.
  - g. At the Township’s request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, avian species and other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the WECS will be placed.
3. Approval of Testing Facilities. Township grant of a Special Land Use permit for a WECS Testing Facility does not guarantee subsequent approval of a Commercial WECS. Should the Testing Facility prove the viability of a Commercial WECS, a separate Special Land Use application to establish one or more Commercial WECS is required.
  4. Performance Requirements
    - a. Inspection: The Township shall have the right upon issuing any WECS and WECS Testing Facility Special Land Use permit to inspect the premises on which the WECS facility is located at all reasonable times. The Township may hire a consultant to assist with any inspection of a WECS or Testing Facility at the applicant’s cost.
    - b. Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious

- action to correct the situation. The applicant shall keep a maintenance log on each WECS which the Township can review on a monthly basis.
- c. Security: If a Special Land Use is approved pursuant to this Chapter, the Township Board shall require a performance guarantee in accordance with the provisions of Section 15.09 of this Ordinance, which will be furnished by the applicant to the Township in order to ensure full compliance with this subsection and any conditions of approval.
    - i. When determining the amount of the required guarantee, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor).
    - ii. The performance guarantee shall be deposited or filed with the Township Clerk after a Special Land Use has been approved but before approval of a building permit for construction of the WECS or WECS Testing Facility.
    - iii. At a minimum, the performance guarantee shall be in an amount determined by the Township to be sufficient to have the WECS or Testing Facility fully removed (and all components properly disposed of and the land returned to its original state) should the structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use approval. The performance guarantee shall be kept in full force and effect during the entire time while a WECS or WECS Testing Facility exists or is in place.
    - iv. The performance guarantee shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS or WECS Testing Facility) for at least thirty (30) years from the date of the Special Land Use approval. Failure to keep the performance guarantee in full force and effect at all times while a WECS or WECS Testing Facility exists or is in place shall constitute a material and significant violation of a Special Land Use approval and this Ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the Special Land Use approval.
  - d. Road repair: Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the applicant's expense.
  - e. Liability: The applicant shall insure each Commercial WECS at all times for at least \$2,000,000 for liability to cover the applicant, Township and land owner.
  - f. The applicant shall be responsible for compensation to persons damaged by a WECS, including damage caused by stray voltage from a WECS.

**JJ. Wireless communication towers, commercial.**

1. These provisions shall not apply to towers located on existing buildings, or to antenna located on existing structures.
2. Antennas for Commercial Wireless Telecommunications Services shall be required to locate on any existing or approved tower or suitable publicly- or privately-owned structure within a three (3) mile radius of the proposed tower unless one (1) or more of the following conditions exists:
  - a. The planned equipment would exceed the structural capacity of the existing or approved structure, tower or building, as documented by a qualified and registered



- professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- b. The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the structure, tower or building as documented by a qualified and registered professional engineer and the interference cannot be prevented at a reasonable cost.
  - c. Existing or approved structures, towers and buildings within a three (3) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.
  - d. Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing structure, tower or building.
3. Any proposed tower for Commercial Wireless Telecommunication Services shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two (2) additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights. Adequate space shall be reserved on the site for ground-mounted equipment serving the additional users.
  4. Communications towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.
  5. The tower base shall be setback from all lot lines a minimum distance equal to one-half ( $\frac{1}{2}$ ) the height of the tower. The tower height shall be measured from the grade at the base of the tower to the topmost element of the tower and all antennae.
  6. Tower height shall be limited to three hundred (300) feet, including antenna.
  7. The Planning Commission may require structures or equipment on the ground to be screened with landscaping, berms, walls, or a combination of these elements.
  8. Communications towers shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.
  9. A performance guarantee shall be provided for communication towers to ensure that if they are abandoned or unused the tower shall be removed, along with any associated structures or equipment, within twelve (12) months of the cessation of operations, unless a time extension is granted by the Zoning Administrator. One (1) three (3) month extension shall be permitted only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure its removal or reactivate its use.

#### **KK. Guest House**

1. A guest house may be permitted by Special Land Use Permit in the AG, RR and R-1 Districts subject to the following conditions:
  - a. Shall not be the principal use on the site.
  - b. May be located on a lot or parcel in combination with a single-family dwelling, provided that the guest house complies with the accessory building location

guidelines (see “Accessory Building”) and is a minimum of thirty (30) feet from the principal single-family dwelling.

- c. May only be used for sleeping accommodations. If lavatory facilities are provided, the guest house must be heated: Sanitary facilities must meet the requirements of the Berrien County Health Department.
- d. May not exceed nine hundred eighty (980) square feet in total floor area including loft.
- e. Shall not exceed the height of the principal dwelling.
- f. Shall be smaller than the primary dwelling.
- g. Shall not be used as a source of income.
- h. Must remain as an accessory structure and shall not be eligible for consideration as a principal structure on its own lot or parcel.
- i. Must be in compliance with the Building Code of the State of Michigan.

#### **LL. Barn Weddings and Receptions**

1. This specific use shall be clearly incidental to a principal farm use as permitted in the AG and RR districts.
2. The site shall have a minimum area of 20 acres identified by a single property (parcel) ID.
3. A paved parking area shall not be required in order to maintain the agricultural character of the district. However, the applicant must demonstrate the capacity of the site to accommodate vehicle parking and circulation without disruption of normal traffic flow on the public right-of-way. All parking areas shall be screened from view of an abutting residential use by either a greenbelt, obscuring fence, or masonry wall when it is determined by the planning commission to be appropriate.
4. The applicant must demonstrate fire code compliance and receive fire and building department approval prior to hosting any events. There shall be no smoking or cooking within the facility. Areas for smoking must be designated and be a minimum of 50 feet from any structure, be shielded from adjoining properties and be approved by local fire authority.
5. The applicant must secure all necessary permits from the Berrien County Health Department, township building department, Berrien County Road Department, as applicable, and must comply with all government regulations.
6. Sanitary facilities, that may consist of portable stations, must be properly maintained and located within a side or rear yard and screened from public view.
7. All waste products shall be screened from public view, properly disposed of on a regular basis and shall in no way be allowed to become a nuisance to adjacent properties.
8. Hours of operation for visitors must be no later than midnight.
9. The number of persons allowed at any event shall not exceed the limit as established by the township fire department based on the maximum occupancy load of the building.
10. Food and drink may be served but shall be prepared off site.
11. Barn weddings and receptions must be conducted by persons who own the premises.

12. Licenses, insurance certificates, and permits must be submitted to township administration annually for review and approval by January 31st of each calendar year.

**MM. Commercial Solar Energy Systems**

1. Principal or Accessory Use. Commercial solar energy systems may be established as principal or accessory uses.
2. Applications. In addition to all other required application contents, equipment and unit renderings or plans shall be submitted for review.
3. Glare and Reflection. The exterior surfaces of solar energy collectors shall be substantially non-reflective of light. A system shall not be installed or located in a manner that directs considerable glare onto neighboring dwellings or adjacent streets.
4. Wires. On-site power lines between solar panels and inverters shall be placed underground.
5. Minimum Setbacks. 100 feet minimum.
6. Maximum Height. The maximum height of a system at its highest point or at full tilt, shall be sixteen (16) feet. Height is measured from the natural grade below the system to the highest point of the panels or any part of the support structure, whichever is greater.
7. Minimum Acreage: Ten (10) acres.
8. Screening. Views of collectors and equipment from residential properties or public right-of-way may be required to be screened. Screening methods may include the use of fences, screening walls, landscaping, or preservation of existing vegetation, that will blend the facility into the natural setting and existing environment.
9. Abandonment. Systems that cease to produce energy continuously for 12 months will be considered abandoned by the Township unless the responsible party provides a plan to reinstate the operation before the end of the 12-month period. If a plan is provided, a 12-month extension for reinstatement may be granted by the Township Board.
10. Removal. The responsible party shall remove all equipment and structures and restore the site to its condition prior to the installation of the system within one (1) year of a abandonment.
11. Decommissioning. A decommissioning plan signed by the responsible party and the property owner (if different), addressing the following shall be submitted prior to approval:
  - a. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.)
  - b. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations.
  - c. Restoration of property to its original condition, or a condition that is stabilized and graded to be consistent with the character of the area.
  - d. The timeframe for completion of decommissioning activities.
  - e. Description of any agreement (e.g. lease) with the property owner regarding decommissioning, if applicable.
  - f. The entity or individual responsible for decommissioning.
  - g. The financial plan for decommissioning activities and site restoration.
  - h. Protocol for updating the decommissioning plan.

- i. A performance guarantee maybe required to be posted in the form of a bond, letter of credit, cash, or another form acceptable to the Township to ensure removal upon abandonment. As a part of the decommissioning plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for full removal of the equipment, foundations, and structures associated with the facility. These amounts will assist the Township when setting the performance guarantee amount. The performance guarantee shall be valid throughout the lifetime of the facility. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two (2) years from the annual anniversary of special land use approval.
- j. The property owner and responsible party shall agree to the decommissioning plan, and the Township's requirements for decommissioning, in the form of a written agreement with the Township that shall be filed with the Berrien County Register of Deeds.

## CHAPTER 12

### SITE PLAN REVIEW

#### SECTION 12.01 PURPOSE

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

#### SECTION 12.02 SITE PLANS REVIEWED

- A. Planning Commission Review of Major Site Plans. In accordance with the provisions of this Chapter, a Site Plan Review by the Planning Commission shall be required prior to the establishment of a new use or the erection of a building in the Districts and conditions cited below, unless excepted by subparagraph B of this section:
1. All Permitted Uses in the following Districts:
    - a. C Commercial District
    - b. IND Industrial District
    - c. PUD Planned Unit Development District – Final PUD Plans
  2. Non-residential and non-farm uses in the AG, RR, R-1, and R-2 Districts.
  3. Multiple-family dwellings in any district.
  4. Special Land Uses in any district.
  5. Site condominiums in any district.
  6. Grading, excavation, filling, soil removal, creation of ponds or tree clearing over one (1) acre.
  7. Parking lots and parking lot expansions over five (5) spaces.
- B. Zoning Administrator Review of Minor Site Plans and Plot Plans.
1. Minor projects and additions and expansions to uses listed in subparagraph A of this Section may be reviewed and approved by the Zoning Administrator.
    - a. Principal and accessory buildings less than 2,000 square feet that will accommodate a use permitted by right.
    - b. Additions to existing buildings less than 2,000 square feet.
    - c. Expansion of parking areas five (5) spaces or less.
    - d. Exceptions.
      - i. When, in the opinion of the Zoning Administrator, a project which otherwise qualifies for Major Site Plan Review may have a negative impact on surrounding properties, the Zoning Administrator may, at their discretion, submit the site plan to the Planning Commission for review. In such cases, the Planning Commission shall follow the review procedure for Major Site Plans and may require any additional information needed to make an informed decision.

- ii. When, in the opinion of the Zoning Administrator and Planning Commission Chairman, a project which otherwise qualifies as Major Site Plan review, does not necessitate additional storm water management, major site preparation, landscaping, or major utility expansion, the plan may be reviewed and approved administratively. This shall not apply to special land uses.
2. Plot plan review and approval by the Planning Commission shall not be required for single-family detached dwellings (except as may be provided in a site condominium development), agricultural uses, a change of use or interior remodeling that does not result in the change in the building footprint or parking requirements, family foster care or day care facilities, and accessory buildings and uses. Plot plan review for these uses will be conducted by the Zoning Administrator.

### **SECTION 12.03 OPTIONAL PRELIMINARY SITE PLAN REVIEW**

- A. Eight (8) of a preliminary site plan may be submitted by the applicant for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
- B. Preliminary site plan submittal shall include the information as listed within subsection D, below, unless certified in writing by the Zoning Administrator as unnecessary. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100').
- C. The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

### **SECTION 12.04 MAJOR SITE PLAN REVIEW REQUIREMENTS**

- A. Application Requirements
  1. An application for site plan approval shall include the following:
    - a. A completed application form with legal description of property.
    - b. An application fee and escrow fee.
    - c. Proof of ownership or interest in the property in question.
    - d. A narrative addressing the Review Standards of Section 12.07.
    - e. Complete site plans in accordance with Section 12.05.
  2. Deadline: all required items must be submitted no less than thirty (30) days prior to the next meeting of the Planning Commission at which the site plan will be reviewed. The deadline shall not be considered as met if the application submittal does not include all of the above required elements.
  3. Requirement. All application submissions must be deemed complete prior to processing by the Zoning Administrator.
    - a. Complete Applications. A complete application includes all the submittal information identified on the application form, unless waived, and any items or exhibits requested

by the Zoning Administrator that are consistent with the standards and requirements of the Zoning Ordinance.

- b. **Incomplete Applications.** An applicant shall be informed of an incomplete application. The Zoning Administrator shall identify the documents, specifications, and other information needed to make the application complete. An incomplete application that has not been revised to meet the completeness requirements shall be considered expired on the 30th day after the original submission of the application. Following an expired application, any additional or further requests by the applicant must be accompanied by a new application and fee. If the application for an item that requires review by the Planning Commission remains incomplete on the deadline for the meeting, the request will not be scheduled on the agenda

**B. Final Site Plan Review**

- 1. If submission of a preliminary site plan is not desired by the applicant, twelve (12) copies of a final site plan prepared by a professional competent in these matters may be submitted for review without first receiving a review of a preliminary plan. Final site plans shall be at a scale not less than one inch equals twenty feet (1"=20') for property under three (3) acres and at least one inch equals one hundred feet (1"=100') for those three (3) acres or more.
- 2. Applications for final site plan reviews shall include the information as listed within subsection D, below, unless deemed unnecessary by the Zoning Administrator.

**C. Site Plan Submission Requirements**

<b>Preliminary and Final Site Plan Requirements</b>	
A recent aerial photograph showing at minimum, properties, roads and use of land within 400 feet of the area.	
Zoning of surrounding properties.	
Proof of ownership or interest in the subject property	
Legal description of the subject property.	
The date, north arrow, and scale.	
Name and address of the property owner or petitioner.	
Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared/revised.	
Existing zoning and use of all properties abutting the subject property.	
All buildings, parking and driveways within 100 feet of all property lines.	
Narrative: Shown on the site plan or submitted separately, describing in general terms:	The overall objectives of the proposed development.
	Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public roads and drives, and open space.
	Dwelling unit densities by type, if applicable.
	Proposed method of providing sewer and water service, as well as other public and private utilities.
	Stormwater management plan and sediment and erosion control measures.
Property lines and approximate dimensions.	
Tree protection plan and measures.	
Limits of disturbance.	

<b>Preliminary and Final Site Plan Requirements</b>
Existing adjacent roads and proposed roads.
Pavement and sidewalk cross-sections.
Parking lots and access points.
Proposed buffer strips or screening.
Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.
Any signs not attached to the building(s).
Photometric plan showing lighting levels by “foot-candle.”
General topographical features at contour intervals no greater than 5 feet.
Proposed grading plan at one (1) topographic contour intervals.
Existing and proposed uses, buildings and structures.
Proof of outside agency coordination, as applicable: County Health Department, Fire Department, County Road Department, Michigan Department of Environmental Quality and any other applicable local, state or federal agency.
<b>Final Site Plan Requirements (in addition to the above)</b>
Seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
Property lines and required setbacks shown and dimensioned.
Dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems.
All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
Existing and proposed topographic contours - minimum 2 foot intervals.
Pavement width and right-of-way width of all roads, streets, access easements and driveways within 100 feet of the subject property.
Location and size of all surface water drainage facilities.
Location of all solid waste disposal facilities, including recycling, and screening.
Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
Revised narrative, as necessary
All existing significant vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
Exterior lighting showing area of illumination and indicating the type and height of fixture to be used.

- A. The Planning Commission, prior to granting approval of a final site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, traffic study, soil tests and other pertinent information.



**SECTION 12.05 APPLICATION AND REVIEW**

- A. Required site plans, application form, escrow fees (if applicable), and an application fee shall be submitted to the Zoning Administrator by the applicant or his agent, at least fifteen (15) days prior to the next regular Planning Commission meeting. If submitted within this time (unless associated with a Special Land Use or PUD), the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting. Applications shall not be accepted unless all required materials and fees are submitted and are declared complete by the Zoning Administrator.
- B. The Planning Commission shall approve, deny, or approve subject to conditions, the site plan, in accordance with the provisions of this Chapter.
- C. Any conditions or modifications recommended by the Planning Commission shall be recorded in the minutes.
- D. Two (2) copies of the final approved site plan shall be signed and dated by the Zoning Administrator or designee and the applicant. The Township shall keep one (1) of these approved copies on file, one (1) shall be returned to the applicant or his designated representative.
- E. Each development subject to site plan review shall be substantially under construction within one (1) year after the date of approval of the site plan, except as noted below.
  - 1. The Planning Commission may grant a single one (1) year extension of the time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  - 3. If neither of the above provisions are fulfilled or the one (1) year extension has expired prior to construction, the site plan approval shall be null and void.
- F. Construction related to each development subject to site plan review, or approved phase of that development, shall be completed within three (3) years after the date of approval of the final site plan.
  - 1. The Planning Commission may grant a single one (1) year extension of the time period for the phase, provided the applicant requests, in writing, an extension prior to the required completion date. The Planning Commission may require a performance guarantee as part of the extension.
  - 2. The extension shall be approved only for the phase in question if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed to completion within the extension period.
  - 3. If neither of the above provisions are fulfilled or the one (1) year extension of site plan approval shall be null and void and any performance guarantees may be exercised to finalize required improvements.

**SECTION 12.06 CHANGES IN THE APPROVED SITE PLAN**

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to the site plan.

- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) meet the standards of the ordinance and the intent of the design and will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:
1. Change in the building size, up to five percent (5%) in total floor area.
  2. Movement of buildings or other structures by no more than ten (10) feet.
  3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  4. Changes in approved building materials to a comparable or higher quality.
  5. Relocation of an outdoor waste receptacle.
  6. Modification of up to ten percent (10%) of the total parking area provided the number of parking spaces is not reduced below that required by this Ordinance.
  7. Sign location or reduction in size or height.
  8. The addition of small accessory buildings of not more than two hundred (200) square feet in area.
  9. Changes in floor plans which do not alter the character of the use.
  10. Changes required or requested by a County, State, or Federal regulatory agency in order to conform to other laws or regulations.
- C. If the Zoning Administrator determines that a proposed minor change may have a major impact on the area involved, he may refer the plan to the Planning Commission and the plan shall be reviewed in the same manner as the original application.
- D. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

## SECTION 12.07 REVIEW STANDARDS

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the Planning Commission in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

- A. Site Development Standards
1. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  2. The site plan shall provide reasonable visual and sound privacy for all dwelling units. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
  3. Landscaping and screening shall comply with Section 13.01
  4. Exterior lighting shall comply with Section 13.04.

5. All buildings and groups of buildings shall be arranged so as to permit emergency vehicle access as requested by the Fire Department under jurisdiction of the project.
  6. Site plans shall conform to all applicable requirements of County, State, and Federal agencies. Approval may be conditioned on the applicant receiving necessary County, State, and Federal permits before a building permit or an occupancy permit is granted.
  7. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.
  8. Utility lines and wires shall be located underground, whenever possible.
  9. The general purposes and spirit of this Ordinance and the Bertrand Township Master Plan shall be maintained.
  10. Building Design. To the maximum extent reasonable, new or substantially remodeled buildings shall be reasonably compatible in appearance with, or shall enhance, the established general character of other buildings in the immediate vicinity or development.
- B. Pedestrian Standards
1. Sidewalks or pathways appropriate for pedestrians or non-motorized vehicles shall be required but may be deferred with an appropriate performance guarantee.
  2. The arrangement of pedestrian connections throughout the development, to adjacent developments, and to existing or future roads shall be planned to provide a safe and efficient non-motorized circulation system.
- C. Access Management
1. Number of Driveways
    - a. In commercial, industrial, or multiple family developments, access to a parcel may be required to consist of either a single two-way driveway or a pair of one-way driveways wherein one (1) driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
    - b. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.
    - c. Where a parcel has frontage along two (2) streets, access shall be provided only along the street with the lower average daily traffic volume, unless the Planning Commission determines this would negatively affect traffic operations or surrounding land uses.
    - d. Where the property has continuous frontage of over three hundred (300) feet and the applicant can demonstrate, using the Institute of Transportation Engineers manual Trip Generation or another accepted reference, that a second access is warranted, the Planning Commission may allow an additional access point.
    - e. Where the property has continuous frontage of over six hundred (600) feet, a maximum of three (3) driveways may be allowed, with at least one (1) driveway being designed and signed for right-turns-in, right-turns-out only.
  2. Shared Access, Frontage Roads, Parking Lot Connections and Rear Service Drives
    - a. Shared use of access between two (2) or more property owners may be required as part of the lot split or site plan review process. The use of driveways constructed along property lines, connecting parking lots and on-site construction of frontage

roads and rear service drives where frontage dimensions are less than three hundred (300) feet) at locations with sight distance problems shall be considered. In these cases, a shared access may be the only access design allowed.

- b. In cases where a site is adjacent to an existing parking lot of a compatible use, or rear service drive, a connection to the adjacent facility shall be required by the Planning Commission, where feasible.
  - c. In cases where a site is adjacent to undeveloped property, the site shall grant a cross access easement to future development. Prior to the issuance of a zoning permit, the applicant shall provide the Zoning Administrator with irrevocable, registered access easements to adjacent properties.
3. Directional Driveways, Divided Driveways and Deceleration Tapers
- a. Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes may be required by the Planning Commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site.
  - b. Driveways shall be designed with a twenty-five (25) foot radii or a thirty (30) foot radii where daily semi-truck traffic is expected.
  - c. Commercial Driveways
    - i. Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent to the property or on the opposite side of the street may be set on a case-by-case basis, but in no instance shall be less than two hundred (200) feet.
    - ii. Minimum spacing between two (2) commercial driveways shall be not less than three hundred (300) feet along the parcel frontage. The minimum spacing is measured from centerline to centerline.
    - iii. To reduce left-turn conflicts, new commercial driveways shall be aligned with those across the roadway, where possible. If alignment is not possible, driveways shall be offset a minimum of two hundred fifty (250) feet from those on the opposite side of the roadway.
  - d. These requirements may be reduced by the Planning Commission in cases where compliance is not possible.

D. Environmental and Natural Features Standards

1. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or buffer strips be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
2. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
3. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Dispersing storm water management techniques throughout the site are preferred. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or

create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being directly discharged to the natural drainage system.

4. Storm water drainage design shall recognize existing natural drainage patterns. Storm water removal shall not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water on-site, as deemed necessary by the Township Engineer using sound engineering practices.

#### **SECTION 12.08 SITE PLAN APPROVALS**

- A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- B. Conditions imposed shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Michigan Zoning Enabling Act and this Ordinance.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners and occupants.
- D. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to the decision shall be kept and made a part of the minutes of the Planning Commission.
- E. The Zoning Administrator shall make periodic investigations of developments for which site plans have been approved. Failure to maintain or comply with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.
- F. Any site plan review approval may be voided by the Zoning Administrator or Planning Commission if it has been determined that a material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency. The voiding of an approved site plan shall be communicated in writing with reasons for revocation to the property owner. The Building Official shall also be notified to withhold permits until a new site plan is approved.
- G. No application which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one (1) year from the date of the last denial, unless permitted by the Zoning Administrator after a demonstration by the applicant of a substantial change of circumstances from the previous application.

#### **SECTION 12.09 PERFORMANCE GUARANTEES**

The Planning Commission may require a performance guarantee in accordance with Section 15.09 to ensure compliance with the approved site plan.

#### **SECTION 12.10 APPEAL**

If any person shall be aggrieved by the action of the Zoning Administrator or Planning Commission, appeal in writing to the Zoning Board of Appeals may be taken in accordance with the provisions of Section 14.07.



## CHAPTER 13

### SITE DEVELOPMENT REQUIREMENTS

#### SECTION 13.01 LANDSCAPING, BUFFERING AND SCREENING

- A. A landscape plan shall be submitted as part of any site plan review application referenced in Section 12.02(A). The landscape plan shall include, but not necessarily be limited to, the following items:
1. Identification of existing natural features, drainage areas, woodlots, free standing trees outside of a woodlot over twelve (12) inches in diameter, and vegetative cover areas to be preserved will be clearly delineated.
  2. Location, spacing, size and descriptions for each plant type proposed for use within the required landscape area.
  3. Identification of areas to be grass or other ground cover and method of installation.
  4. Typical straight cross-section including slope, height, and width of berms and swales, or height and type of construction of wall or fence, including footings.
  5. Construction details for features to be constructed to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
  6. Screening details for all loading and unloading areas and outside storage areas, including areas for the storage of trash. Areas which face or are visible from Residential Districts or public roads, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height.
- B. Landscaping Requirements:
1. Landscaping requirements may be waived if the existing vegetation to be retained on site meets or exceeds the requirements of this Chapter.
  2. All existing live trees in excess of twelve (12) inches in diameter shall be preserved (as much as practical) outside the immediate building area of the site; however, existing trees of those species listed below as “Prohibited Species” in Section 13.01 F, may be removed.
  3. All required front setbacks shall be landscaped with a minimum of one (1) canopy or shade tree and four (4) shrubs for each thirty (30) lineal feet (or major portion thereof) of frontage abutting the right-of-way. Access ways from public rights-of-way shall not be subtracted from the lineal dimension used to determine the minimum number of trees and shrubs required.
  4. All required side and rear setbacks shall be landscaped with a minimum of one (1) canopy, under story, or evergreen tree and three (3) shrubs for each forty (40) lineal feet (or major portion thereof) along property lines.
  5. Parking lots exceeding twenty (20) parking spaces shall provide the equivalent of one (1) landscape island or perimeter bump-out for every twelve (12) spaces of parking or part thereof. Landscape islands or bump-outs shall be at least one hundred and eighty (180) square feet in size, with a minimum width of three (3) feet. Landscape islands shall be landscaped with one (1) canopy or ornamental tree and two (2) shrubs for every sixty (60) square feet of landscaping island. Receded landscape islands are encouraged to manage storm water on site. Parking lots shall be adequately screened from the right of way and residential property. Shrubbery or hedges may be required to “soften” the visual impact of the parking areas and to reduce headlight glare, to the satisfaction of the Planning Commission.

6. All formal landscaped areas must be irrigated and be installed with moisture detectors.
  7. Additional landscaping may be required adjacent to the front or side of buildings to break up long building expanses and walls without windows.
- C. Screening Requirements
1. Screening may be required on the subject parcel in the following situations, except as may be provided elsewhere in this Ordinance.
    - a. Around all trash dumpsters in all Districts.
    - b. Around designated outdoor storage areas in the C and IND Districts.
    - c. Around any loading/unloading area.
  2. Screening may be required on the subject parcel even if the surrounding area or adjacent parcels are unimproved.
  3. When any developed parcel changes to a more intense land use, screening shall be provided in compliance with this Ordinance.
  4. If existing conditions on the subject parcel are such that a parcel cannot comply with the screening requirements, the Planning Commission, as appropriate, shall determine the character of the screen based on the following criteria:
    - a. Traffic access and circulation.
    - b. Building and parking lot coverage.
    - c. Outdoor sales, display, or manufacturing area.
    - d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc.
    - e. Views and noise levels.
- D. Screening Fences or Walls: All required screens shall meet the following requirements:
1. A solid, sight-obscuring fence or wall six (6) feet high.
  2. Dumpsters, enclosed on all sides and not containing any openings other than a gate for access which shall be closed at all times when not in use.
  3. The fence or wall shall be constructed of masonry, treated wood, or other material approved by the Planning Commission if determined to be durable, weather resistant, rust proof, and easily maintained.
  4. All other applicable standards of this Section shall be met.
- E. The Planning Commission may require a landscaped buffer in conjunction with any approval of a site plan. When a buffer is required for a use in Nonresidential District between a Residential and a Nonresidential District, it shall be placed on the Nonresidential District side. The Planning Commission shall approve the location, size, shape, materials and other specifications for the buffer zone subject to the general requirements of this Section.
1. The required buffer may be comprised of berms, required plant material in Section 13.01, B above, additional plant material where required landscaping materials provide insufficient screening, walls, fences, or any combination thereof. The Planning Commission shall determine if the alternate materials will provide the same degree of screening and buffering than required by these standards.
  2. Landscaping may be required to serve as windbreaks.



3. Unless otherwise stated in this Ordinance, minimum width of the buffer shall correspond to the setback requirements for parking areas as prescribed in Section 13.02, but shall not be less than ten (10) feet.
4. All areas within the buffer which do not contain trees or planting beds shall be covered with grass or other living ground cover.

BUFFER AREA LANDSCAPE REQUIREMENTS		
District	Min. Width	Min. Landscaping Requirements per 50 Linear Feet
AG, RR, R-1, R-2	10 ft.	1 Canopy tree or 1 evergreen tree 1 ornamental tree or 12 shrubs
C	10 ft.	1 canopy tree 1 evergreen tree or 1 ornamental tree 8 shrubs
IND	25 ft.	2 canopy trees 1 evergreen tree or 1 ornamental tree 12 shrubs

1- Only applicable to non-agricultural/residential uses in AG, RR, R2 and R3.

5. Detention/retention areas shall be permitted within a required buffer provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plan materials.

F. Landscaping Standards

1. Landscaping shall be installed so that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
2. A raised, rolled, or sub-surface curb or curb stops shall protect all landscape islands and landscaped areas immediately adjacent to paved areas. There shall also be a means of protecting site trees against injury from mowing equipment.
3. Unless used as street trees, all landscaped areas shall be arranged to simulate a natural setting such as staggered rows or clusters.
4. Landscaping, including street trees, shall be designed to blend with adjacent parcels where a road, walkway or other connections are provided between parcels.
5. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be removed and replaced within six (6) months.
6. Minimum plant sizes at time of installation shall be according to the chart below.
7. The overall landscape plan shall not contain more than twenty-five percent (25%) of any one (1) plant fragmities.
8. Where a berm is provided for the purposes of screening and buffering, it shall have a maximum slope of one (1) foot of vertical rise to three (3) feet of horizontal distance (1:3) with a crest area at least four (4) feet wide.
9. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

Plant Type	Minimum Size (DBH)
Deciduous Canopy Tree	2.5 in. caliper
Deciduous Ornamental Tree	2.5 in. caliper
Evergreen Tree	6 ft. height
Deciduous Shrub	18 in. height
Upright Evergreen Shrub	2 ft. height
Spreading Evergreen Shrub	18 to 24 in. spread

Prohibited Species	
Common Name	Horticultural Name
Box Elder	Acer Negundo
Ginkgo	Ginkgo Biloba (female only)
Honey Locust	Gleditsia Triacanthos (with thorns)
Mulberry	Morus Species
Poplars	Populus Species
Black Locust	Robinia Species
Willows	Salix Species
American Elm	Ulmus Americana
Siberian Elm	Ulmus Pumila
Slippery Elm; Red Elm	Ulmus Rubra
Chinese Elm	Ulmus Parvifolia
Russian Olive	Elaeagnus-angustifolia

- G. The Planning Commission may require a performance guarantee in accordance with the requirements of Section 15.09 of sufficient amount to insure the installation of all required landscaping.

**SECTION 13.02 PARKING REQUIREMENTS**

- A. Parking - General
  1. Unless otherwise permitted in this Ordinance, off-street parking shall not be located within the required front yard setback.
  2. The minimum number of parking spaces provided shall conform to the requirements of the uses as enumerated in Section 13.02, B.
  3. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this Ordinance.
  4. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.

5. The Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:
  - a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.
  - b. Alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator.
  - c. All or a portion of any deferred parking shall be constructed if required by the Zoning Administrator upon a finding that the additional parking is needed.
  - d. The applicant shall provide projections, industry standards or case studies, when less parking is needed than the requirements above.
  
- B. Minimum Parking Spaces by Use: Parking spaces shall be provided for each use according to the Parking Space Requirements Table
  1. Units of Measure
    - a. When units or measurements determining the number of required parking or loading spaces result in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall require one (1) parking space.
    - b. Gross floor area will be used to compute the number of parking spaces required, unless otherwise noted. When usable floor area is used to calculate parking requirements, eighty-five percent (85%) of the gross floor area shall be used if more precise calculations are unavailable.
  2. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use that is similar in type. If there is no requirement that is reasonably applicable to the use, the Zoning Administrator shall determine the number of parking spaces that must be provided.

<b>Parking Space Requirements Table</b>	
<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
<b>Residential</b>	
Accessory apartments as part of a commercial use	1.5 per dwelling unit
Bed and breakfast establishment	2 plus 1 per guest room
Family and group day care home	1 per each 3 children or adults under care, computed on the basis of the licensing limits of the facility
Horse riding stables, horse breeding stables	1 per each 2 stalls; parking spaces shall be sized to accommodate vehicles plus trailers
Manufactured home community	2 spaces per manufactured home site, plus 1 space per each 5 home sites for use of visitors, plus 1 space for each 300 sq. ft. UFA in the office area
Multiple family dwelling	2.5 per unit
Single-family detached dwelling, two-family dwelling	2 per dwelling unit
State licensed residential family care facility or group care facility	1 per each 3 beds or 2 rooms, whichever is less, plus 1 per on duty shift staff

<b>Parking Space Requirements Table</b>	
<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
<b>Non-Residential</b>	
Accessory office areas related to principal uses	1 space per each 300 sq. ft. of UFA
Art studio/craft shop	1 space per 800 sq. ft. of GFA
Assembly or production uses	1 space per each 1,000 sq. ft. of GFA
Auditorium or place of assembly	1 per each 3 seats
Bank or other financial institution without drive-through facility	1 space per each 400 sq. ft. of GFA
Banquet hall and/or conference center	1 space for every 4 persons by occupancy permitted in the structure by fire code
Cemetery	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker's residence
Commercial day care center	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial storage warehouse	1 space for every storage unit (adjacent to the units) plus 1 for each employee
Contractors yard, building materials storage	1 space for every storage unit (adjacent to the units) plus 1 for each employee
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	1 space
Family day care	1 per each 3 clients computed on the basis of the greatest number of clients on site at a given time in addition to those required for the residence
Farm winery	1 space for each 300 sq. ft. of UFA dedicated to retail sales, tasting and hospitality, or 5 spaces, whichever is greater
Fraternal or social club or lodge	1 space for every 4 persons by occupancy permitted in the structure by fire code
Golf course or country club	2 per each hole for a par 3 course; 6 per hole for other courses plus those required for accessory uses as noted in the applicable Districts
Health or exercise club	1 space for every 6 persons by occupancy permitted in the structure by fire code
Horse riding stable, horse breeding stable	1 per each 2 stalls; parking spaces shall be sized to accommodate vehicles plus trailers
Hotel/motel	3 spaces for employees, plus 1 for each guest room, plus required spaces for accessory uses
Hospital	1 per each three beds and 1 per each employee in addition to 1 per each 200 square feet of UFA of outpatient area
Indoor theater	1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial	1 space for each 400 sq. ft. of UFA
Laboratories including experimental, film, and testing	1 space for each 500 sq. ft. of UFA required for offices located on the premises
Laundromat	1 space for each 2 machines
Lumberyards	1 space per each 300 sq. ft. of UFA office space plus 1 space per employee on the largest shift
Medical office, including clinic	1 space per each 400 sq. ft. of GFA
Mortuary or funeral home	1 space per each 50 sq. ft. of UFA

<b>Parking Space Requirements Table</b>		
<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>	
Motor freight terminal including garaging and maintenance of equipment	1 space per each 1,000 sq. ft. of GFA of office space, plus 1 space per employee on the largest shift	
Municipal and public service activity	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas	
Open air business	1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any principal building and associated accessory uses	
Park, playground and community center	10 per each athletic field plus 1 per each 10 sq. ft. of indoor or outdoor play area	
Personal service establishment	2 spaces per service provider	
Place of religious worship	2 per each 5 seats of capacity, based on the maximum seating capacity of the main place of assembly.	
Professional office	1 space per each 400 sq. ft. of GFA	
Public and utility service buildings	1 space per each 300 sq. ft. of GFA, not including parking areas for municipal vehicles	
Recreation facility, indoor (e.g., arcades, bowling, billiards)	1 space for every 3 persons by occupancy permitted in the structure by fire code	
Recreation facility, outdoor (e.g., mini-golf, batting cages)	1 space per each 2 miniature golf holes, plus 2 per each batting cage, plus 1 per each 100 sq. ft. of GFA of arcade space	
Restaurant without drive through facility	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes for the area devoted to indoor seating	
Research and development facilities	1 space for each 500 sq. ft. of UFA	
Retail garden and landscape supply stores	1 space per each 300 sq. ft of UFA plus area of outdoor storage area ((UFA + outdoor)/300)	
Retail building supplies and equipment store	1 space per each 300 sq. ft. of UFA	
Retail establishment	1 space per each 300 sq. ft. of GFA	
Salvage or junk yards	1 space per each 300 sq. ft. of UFA office space plus 1 space per employee on the largest shift	
Sexually oriented businesses	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes	
Schools (Private)	Elementary, middle and secondary school	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for busses must be provided
	High school	1 space per 5 students or the amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises	1 space for every 3 persons by occupancy permitted in the structure by fire code	
Tool and Die manufacturing facilities	1 space for each employee present during the maximum shift	
Trade or industrial schools	1 space per employee plus, 1 space per every 2 students	
Vehicle repair, minor and major	1 space per service bay plus 1 space per employee	
Vehicle sales	1 per each 300 sq. ft. of GFA in the showroom/office, plus required spaces for accessory repair areas	

<b>Parking Space Requirements Table</b>	
<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
Vehicle wash establishment	1 space per each 3 wash bays plus stacking as required by Chapter 13
Veterinary clinic	1 space for each 400 sq. ft. of UFA
Warehouses, cartage businesses	1 space for each employee present during the maximum shift
Water supply and treatment facilities	1 space per employee, plus adequate spaces to store municipal vehicles
Wholesale establishments	1 for each 2,000 sq. ft., plus GFA required for office space
Wireless Telecommunication Tower	1 space per tower

**C. Maximum Parking Requirement**

1. To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking lot shall have parking spaces totaling more than an amount equal to ten percent (10%) greater than the minimum parking space requirements, as determined by the Parking Requirements as noted in each Zoning District.
2. The Planning Commission, upon application, may grant additional spaces beyond those permitted in subparagraph 1, above. In granting additional spaces the Planning Commission shall determine that the parking area otherwise permitted will be inadequate to accommodate the minimum parking needs of the particular use and that the additional parking will be required to avoid overcrowding of the parking area. The actual number of permitted spaces shall be based on professional documented evidence of use and demand provided by the applicant. The Planning Commission may consider this request as part of any required Site Plan Review.

**D. Parking Requirements for RR, R-1 and R-2 Districts.**

1. Location of parking
  - a. Single-family detached and two family dwellings: The off-street parking facilities required for single-family and two family dwellings shall be located on the same lot as the building they are intended to serve. One (1) additional parking lane may be allowed with Zoning Administrator approval.
  - b. Non-residential uses: The required off-street parking facilities shall not be located in the required front yard area.
  - c. Multiple family: Parking areas located in the side and rear yard setback areas adjacent to a Residential District or use shall be set back at least thirty (30) feet of which ten (10) feet nearest the respective property line shall be a buffer strip in accordance with Section 13.01, E for the entire length of the parking area. The required buffer strip shall incorporate a minimum six (6) foot high vegetative and/or fence screen.
2. The required off-street parking facilities shall not be located in the required front yard.
3. The amount of required off-street parking spaces for individual uses shall be determined in accordance with the Parking Requirements table and shall meet the applicable requirements of Section 13.02.
4. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. The parking spaces shall be constructed with an asphalt or portland cement binder, graveled, or compacted earth so as to provide a durable and dustless surface, and shall

occupy no greater than thirty-three (33%) percent of the required front yard. All parking shall take place in these areas.

5. Overnight parking of semi-truck tractors and trailers, and commercial vehicles exceeding one and one-half (1½) tons shall be prohibited in any Residential District, except as may be permitted for a home-based business.
6. Residential parking areas for boats, trailers, motor vehicles, and recreation equipment shall not be located in any required front yard setback. This shall not prohibit direct access drive parking of automobiles on paved, established driveways

E. General Parking Requirements – Nonresidential Districts

1. Except for in the C District, off-street parking shall be located on the same lot as the use is intended to serve. Fifty percent (50%) of the C parking requirements may be shared, on-street or community parking.
2. Two (2) or more buildings or uses on separate lots may collectively provide the required off-street parking provided a joint recorded agreement is provided and registered with the Berrien County Register of Deeds and continually maintained.
3. Shared Parking Area
  - a. The Zoning Administrator may approve a shared parking arrangement for two (2) or more uses to utilize the same off-street parking facility where the operating hours of the uses do not significantly overlap.
  - b. Required parking shall be calculated from the use that requires the greatest number of spaces.
  - c. Should any use involved in the shared parking arrangement change to another use, the Zoning Administrator may revoke this approval and require separate parking facilities as required by this Ordinance.

F. Specific Parking Requirements: IND Industrial Districts

- a. The off-street parking facilities required shall not be located within twenty (20) feet of the road right of way.
- b. The side and rear yard setback areas common to an adjacent Residential District or use shall be a minimum of fifty (50) feet of which twenty (20) feet nearest the respective property line is to be developed as a buffer strip in accordance with Section 13.01 E. The buffer strip shall:
  - 1) Extend the entire depth of the side of the lot in the case of the side yard parking adjoining a Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining a Residential District or use.
  - 2) The required buffer strip shall incorporate a minimum six (6) foot high landscape screen or fence.
  - 3) The Planning Commission may require a four- (4) to six- (6) foot wall where noise and activity associated with a particular industrial use could be a nuisance to neighboring residential lands.

G Off-Street Parking Lot Construction and Design Requirements

1. Wherever the parking requirements of each Zoning District require the building of an off-street parking facility, it shall be laid out, constructed and maintained in accordance with the standards and regulations of this subsection.

- 2. Permits
  - a. No parking lot shall be constructed unless and until the Zoning Administrator issues a zoning permit or final site plan approval has been granted.
  - b. Application for a permit shall be submitted in a form provided by the Zoning Administrator and shall be accompanied with two (2) sets of plans for the development and construction of the parking lot showing compliance with the provisions of this Chapter.
  - c. No final occupancy permit shall be issued for a use for which the parking lot is intended until the parking lot has been completed, or a performance guarantee is in place for its completion.
- 3. Parking spaces and maneuvering lanes shall comply with the parking space requirements of the Parking Space Design Table.

<b>Parking Space Design</b>				
<b>Parking Pattern (Degrees)</b>	<b>Parking Space (ft)</b>		<b>Aisle Lane Width (ft)</b>	
	<b>Width</b>	<b>Depth</b>	<b>One Way**</b>	<b>Two Way</b>
0 (parallel)	9	22	12	20
90	9	18	15	24
**Where one-way drives for access about buildings, the minimum width shall be 20 ft. NP = Not Permitted				

- 4. All spaces shall be provided adequate access by means of maneuvering aisles. Backing directly onto a road shall be prohibited.
- 5. Parking Lot Access
  - a. Adequate ingress and egress to and from the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
  - b. Ingress and egress to and from a parking lot located in a Nonresidential District shall not be across land zoned in a Residential District or land used for residential purposes.
  - c. Except as may otherwise be required by this Chapter, each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty (20) feet from any adjacent property located in a Residential District.
- 6. Construction Requirements
  - a. The entire parking area, including parking spaces and maneuvering lanes, shall be provided with asphalt or concrete surfacing in accordance with approved specifications.
  - b. Surfacing of the parking area shall be completed prior to occupancy unless seasonal restrictions apply in which case a performance guarantee which insures that paving occurs by a specified time shall be provided.
  - c. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area to preclude drainage of water onto adjacent property or toward buildings.



- d. All parking spaces shall be striped with paint or other approved material, at least four (4) inches in width. The striping shall be maintained and clearly visible.
  - e. Curbing or bumper blocks shall be provided along the perimeter of all paved and landscaped areas sufficient to keep vehicles from encroaching on property lines or sidewalks. Bumper blocks shall be provided at least four (4) feet from the edge of a property line or sidewalk. Bumper blocks shall be secured to prevent their movement. Where parking spaces terminate at a curb parallel to a sidewalk, bumper blocks shall be utilized to prevent vehicle overhang on the sidewalk.
7. Snow Storage
- a. For parking lots having more than one hundred (100) spaces, where the Planning Commission determines that snow removal and storage may pose a problem to traffic circulation or reduce the amount of required parking, the site plan shall designate snow storage areas.
  - b. Storage areas may be provided only within a side or rear yard, and shall not be permitted to hinder the vision of drivers or pedestrians within or outside the parking area.
  - c. The snow storage area shall be equal to at least ten percent (10%) of the size of the planned parking lot. The area used for calculation of snow storage shall not include deferred parking areas, until the deferred parking area is converted to parking.
  - d. Snow shall be removed as necessary to maintain the number of required parking spaces.
- H. Change of use of an existing structure: When a commercial, industrial or office building has a change of use the new use shall comply with the following:
- 1. The previously approved site plan, should one exist.
  - 2. All maintenance-related standards of this Ordinance.
  - 3. Screening and landscaping requirements of this Ordinance.
- I. Stacking Spaces
- 1. Certain uses are greatly reliant on vehicle access and possess characteristics that create the need for additional area devoted to stacking of vehicles. This subsection addresses these individual uses and outlines requirements for stacking spaces.
  - 2. Each stacking space shall be shown on a site plan.
  - 3. Each stacking space shall have a minimum dimension shown of twenty-two (22) feet in length by nine (9) feet in width. The lane containing the stacking spaces shall be separate and distinct from other access drives and maneuvering lanes for parking spaces.
  - 4. The location of stacking spaces shall be placed to avoid undue interference with on-site parking and to prevent unnecessary hazards to pedestrians.
  - 5. Regardless of the number of stacking spaces required or provided, in no instance shall the operator permit vehicles to stack up into any adjacent public or private road.
- J. Temporary, Special Events or Overflow Parking
- 1. Parking areas shall be located and designed to ensure safe and efficient circulation for both pedestrians and vehicles, including designated maneuvering lanes, ingress and egress.

2. Aisles and parking rows shall meet the minimum widths required.
3. Maneuvering lanes and parking rows shall be designated by temporary markings, such as paint, cones, flags or ribbons.
4. Supervision by attendants or staff during major events.
5. Parking areas and maneuvering lanes shall be gravel, stone or a similar material, or shall be grassed.
6. Grassed lots shall be maintained, mowed and seeded to ensure a passable and stable surface.
7. Sites shall be graded and/or properly drained to dispose of all surface and storm water and to prevent drainage onto abutting properties.

**SECTION 13.03 LOADING REQUIREMENTS**

- A. Adequate space for standing, loading and unloading, that avoids undue interference with public use of dedicated rights-of-way, shall be provided and maintained on the same premises with every building, structure or part thereof involving the receipt or distribution of vehicles or materials or merchandise.
- B. Loading, unloading or parking of delivery vehicles and trailers in a Nonresidential District shall take place only in approved areas. Under no circumstances shall a delivery vehicle or trailer be allowed to park in a designated loading/unloading zone for longer than forty-eight (48) hours.
- C. At least one (1) loading space per commercial or service establishment shall be provided in the C District in addition to any required off-street parking area. Unloading aisle, separate from parking areas may be provided in the required front yard.
- D. All loading spaces in the Industrial District shall be at least ten (10) by fifty (50) feet, or other dimensions totaling at least five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or cement binder. Spaces shall be provided as follows:

Gross Floor Area (sq. ft.)	Loading and Unloading Spaces Required
0--1,400	None
1,401--20,000	1 space
20,001--100,000	1 space <u>plus</u> 1 for each 20,000 sq. ft. UFA over 20,001 sq. ft. UFA
100,001 and over	5 spaces <u>plus</u> 1 for each 40,000 sq. ft. UFA over 100,001 sq. ft. UFA

**SECTION 13.04 EXTERIOR LIGHTING**

- A. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally, except for private lighting for single and two family dwellings.
- B. All outdoor lighting shall be directed away from, and if necessary, shall be shielded to prevent the shedding of light onto adjacent properties or roadways (See Figure 14).
- C. Light poles used to illuminate parking lots or storage areas shall be limited to twenty (20) feet in height when adjacent to residential property, thirty (30) feet in height in all other circumstances.

- D. All parking lots shall be illuminated by pole-mounted light fixtures and not wall packs.
- E. Lights used for canopies for the uses as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.
- F. Lighting of parking areas, buildings, or structures shall be minimized to reduce light pollution and preserve the rural character of Bertrand Township.

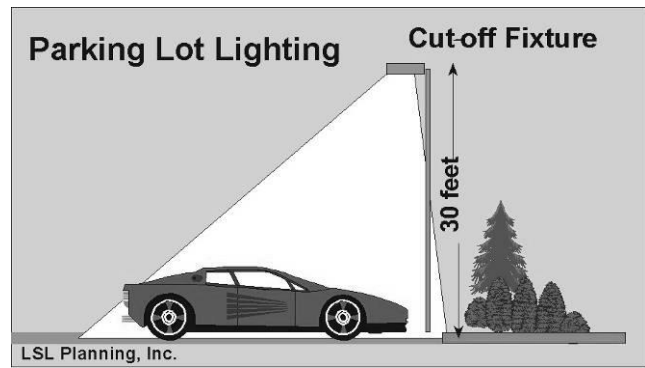


Figure 14: Light Poles and Cut-off Fixtures

### SECTION 13.05 SIGNS

- A. Signs – Description and Purpose: The sign provisions of this Ordinance are intended to regulate the size, number, location, and manner of display of signs in the township, consistent with the following purposes:
1. To protect the safety and welfare of residents; to conserve and enhance the character of the township; and to promote the economic viability of commercial and other areas by minimizing visual clutter.
  2. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.
  3. To promote uniformity in the size, number, and placement of signs within zoning districts.
  4. To promote the identification of establishments and premises in the township.
- B. The following signs are expressly prohibited:
1. A sign resembling the flashing lights customarily used in traffic signals, or police, fire, ambulance, or rescue vehicle or signs which imitate official traffic directional signs or devices.
  2. Signs with flashing or moving illumination.
  3. Signs incorporating elements that shimmer or are highly reflective in daylight.
  4. A sign using the words, "Stop", "Danger", or any other words, phrases, symbols, or characters, in a manner that interferes with, misleads, or confuses a vehicle driver.
  5. Signs on parked vehicles where the sign is the primary use of the vehicle.
  6. Signs affixed to trees, shrubs or similar natural features.
  7. Signs affixed to fences or utility poles or structural elements not capable to support the signs.
  8. Roof signs.
  9. Signs in the public right-of-way.
  10. Any sign which obstructs the ingress or egress from a required door, window, or other required exit.
  11. Banners used as permanent signs.

12. Temporary signs and devices including inflatable devices, pennants, pinwheels, searchlights or other devices with similar characteristics, except when used temporarily for periods not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner.
  13. Portable “A” frame signs, inverted "T" signs with spider legs, with or without wheels where lettering can be changed, rearranged or altered (see also definition of “portable” sign).
  14. Billboards
- C. The following signs shall be exempt from the provisions of this Ordinance:
1. Governmental signs.
  2. Signs for essential services.
  3. Historical markers.
  4. Memorial signs or tablets.
  5. Signs with an address and/or name of the owner or occupant, of not more than two (2) square feet in area, attached to a mailbox, light fixture, or exterior wall.
  6. Directional signs of up to four (4) square feet provided only one (1) is permitted per driveway.
- D. Measurement of Signs
1. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo and any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
  2. The area of a free-standing or ground sign that has two (2) or more faces shall be measured by including the area of all sign faces, except that if two (2) sign faces are placed back to back and are of equal size, the area of the two (2) back to back faces shall be counted as one (1) face. If the two (2) back to back faces are of unequal size, the larger of the two (2) sign faces shall be counted as one (1) sign face.
  3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less. Where an artificial berm exists, the average natural grade is used as a point of measurement.
- E. Permitted Signs by District
1. AG Agricultural District:
    - a. One (1) non-illuminated wall sign of up to eight (8) square feet for a home occupation. If a residential unit containing a home occupation is located seventy-five (75) feet or more from the right-of-way line, one (1) freestanding sign of not more than eight (8) square feet in area and five (5) feet in height is permitted.
    - b. One (1) non-illuminated temporary yard sign not exceeding eight (8) square feet in area.
    - c. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.

- d. Three (3) non-illuminated signs less than two (2) square feet per parcel.
2. RR, R-1, and R-2 Residential Districts:
    - a. Residential entrance way signs (up to thirty-two [32] square feet) are permitted for residential developments. One (1) sign for each public road frontage may be provided; or two (2) signs may be allowed, one (1) at each corner, provided that the total area of both signs does not exceed thirty-two (32) square feet. Signs shall not exceed eight (8) feet in height.
    - b. One (1) internally illuminated monument sign of up to thirty-two (32) square feet for institutional uses such as places of religious worship, schools and parks. Signs shall not exceed eight (8) feet in height.
    - c. One (1) non-illuminated wall sign of up to eight (8) square feet for a home occupation. If a residential unit containing a home occupation is located seventy-five (75) feet or more from the right-of-way line, one (1) freestanding sign of no more than eight (8) square feet in area and five (5) feet in height is permitted.
    - d. One (1) non-illuminated temporary yard sign not exceeding eight (8) square feet in area.
    - e. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
    - f. Three (3) non-illuminated signs less than two (2) square feet per parcel.
  3. C Commercial District:
    - a. A non-illuminated real estate sign not exceeding twenty-four (24) square feet in area.
    - b. Time and temperature electronic message boards.
    - c. One (1) monument or pole sign is permitted per property, regardless of the number of businesses there, except that one (1) additional sign of the same type may be erected per road frontage when the development has frontage on more than one (1) major road, each of which meet the lot width required in the District.
      - i. Pole signs shall not exceed twenty (20) feet in height and monument signs shall not exceed ten (10) feet in height.
      - ii. Sign area shall be limited to one hundred (100) square feet in area.
      - iii. Wall or awning/canopy signs shall not exceed ten percent (10%) of the surface area of the commercial portion of the front building face and may be placed on any wall. Awning/canopy signs shall be considered wall signs.
      - iv. In the case where the building is over one hundred (100) feet from the road, this allotment may be fifteen percent (15%) of the front face of the storefront.
      - v. In the case where the building is over three hundred (300) feet from the road, this allotment may be twenty percent (20%) of the front face of the storefront.
      - vi. Signs shall be attached to the principal building or on an awning/canopy.
      - vii. Signs shall not project above the roofline or cornice. A sign attached to a mansard shall be considered a wall sign.

4. IND Industrial District:
  - a. Non-illuminated trespassing, safety, directional, caution or announcement signs or not exceeding two (2) square feet in area. A non-illuminated real estate sign not exceeding twenty-four (24) square feet in area.
  - b. On-site political signs not exceeding twenty four (24) square feet in display area. Signs shall be removed within ten (10) days of the election.
  - c. Time and temperature electronic message boards.
  - d. One (1) monument sign is permitted per property, regardless of the number of businesses there, except that one (1) additional sign of the same type may be erected per road frontage when the development has frontage on more than one (1) major road each of which meet the lot width required in the District.
    - i. Monument signs shall not exceed ten (10) feet in height and shall be set back at least ten (10) feet from the front property line.
    - ii. Sign area shall be limited fifty (50) square feet in area.
  - e. Wall or awning/canopy signs shall not exceed ten percent (10%) of the surface area of the commercial portion of the front building face and may be placed on any wall. Awning/canopy signs shall be considered wall signs.
    - i. In the case where the building is over one hundred (100) feet from the road, this allotment may be fifteen percent (15%) of the front face of the building.
    - ii. In the case where the building is over three hundred (300) feet from the road, this allotment may be twenty percent (20%) of the front face of the building.
    - iii. Signs shall be attached to the principal building or on an awning/canopy.
    - iv. Signs shall not project above the roofline or cornice.
    - v. A sign attached to a mansard shall be considered a wall sign.

F. Sign Regulations Applicable to All Districts

1. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any public lands and right-of-ways in Bertrand Township except in accordance with the provisions of this Ordinance.
2. Sign Locations. All signs shall be located upon private property and may not be located upon public road rights-of-way, except as follows:
  - a. Governmental signs.
  - b. Private event directional signs:
    - i. One sign, for the purpose of directing the public to a specific property, may be placed along or near the right-of-way of a major road near the intersection with the side street that leads to the subject property, for the following purposes:
      - a) Real estate sales
      - b) Real estate open houses
      - c) Private garage or yard sales
      - d) Community or non-profit events at non-residential sites (parks, schools, churches, etc.)

- ii. For the purpose of further directing the public to the location of any of the above, one (1) additional sign may be placed on each directional segment of the route to the site, near the intersection of the next turn, until the street upon which the subject property is located has been reached.
    - iii. Any sign for the above purposes may not be erected more than seven (7) days prior to the event and must be removed no more than two (2) days after the event, except that real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
  3. All signs shall be stationary.
  4. One (1) construction sign per site is permitted, subject to the following restrictions:
    - a. Construction signs shall not be larger than thirty two (32) square feet and shall not exceed twelve (12) feet in height.
    - b. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
    - c. Construction signs shall be removed within thirty (30) days from the issuance of any occupancy permit for the building or structure which is the subject of the construction sign.

#### G. Nonconforming Sign

1. Every permanent sign, legally established sign which does not conform to the height, size, area, or location requirements of this Chapter is deemed to be nonconforming.
2. Nonconforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired so as to continue their useful life.
3. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.
4. Signs damaged more than 60% shall only be rebuilt in conformance with the current zoning ordinance.

#### H. Sign Application and Permits

1. A zoning permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Chapter. For purposes of this Section, alteration of a sign shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.
2. An application for a sign permit shall be made to the Zoning Administrator, and shall include submission of a fee as may be required by resolution or other action by the Township Board. The application shall include the following:
  - a. Name, address, and telephone number of the applicant and the person, firm, or corporation erecting the sign.
  - b. Address or permanent parcel number of the property where the sign will be located.

- c. A sketch showing the location of the building, structure, or parcel of land upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures, together with the depth of setback from lot lines.
  - d. A scaled print or drawings of the plans and specifications for the sign (area, height, lighting, etc.) and information on the method of construction and attachment to structures or the ground.
  - e. Any required electrical permit.
  - f. Identification of the zoning district in which the sign is to be located, together with any other information which the Zoning Administrator may require in order to determine compliance with this Ordinance.
3. All signs requiring electrical service shall be reviewed for compliance with the electrical code applicable in the Township.
  4. The Zoning Administrator shall issue a sign permit if all provisions of this Chapter and other provisions of this Ordinance and other applicable ordinances are satisfied. A sign authorized by the permit shall be installed or shall be under construction within six (6) months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of the required fee.

#### **SECTION 13.06 ACCESS MANAGEMENT: US ROUTE 12**

- A. US Route 12 Access Management Requirements. All properties with frontage on US 12 shall be subject to the following regulations for access to US 12.
- B. Intent. The purpose of the US Route 12 Access Management Requirements is to prevent traffic conflicts generated when the number of vehicles using the driveway create turning movements which, due to the number of lanes in the roadway and the amount of traffic using the roadway result in traffic conflicts. Requirements are designed to space driveway openings and provide additional frontage setback land for the construction of frontage roads if needed in the future, for two types of uses as follows:
  1. Commercial Driveways, serving commercial establishments, industry, governmental, educational, institution, hospital, church, multi-family residential buildings, mobile-home parks, and all other facilities not included in the definition of residential/farm field driveways.
  2. Residential/Farm Field Driveways, serving single or two-family homes or a driveway serving a farm yard, cultivated or uncultivated fields, timberland, or undeveloped land not used for industrial or commercial purposes, including access to utility buildings and facilities.

All buildings constructed on land with frontage on US 12 shall include an additional 30 feet of land between the US 12 right-of-way line and the building, for the provision of a frontage road and adequate driveway construction. This requirement is in addition to the setback required for the applicable zoning district.
- C. Commercial Driveway Standards
  1. Driveways with access to US 12 shall be located so as to limit undue interference with the free movement of road traffic, to provide the required sight distances, and to provide the most-favorable driveway grade.



2. Driveways, including turning radii, shall be located entirely within the applicant's right-of-way frontage. Encroachment on adjacent property shall only be permitted upon the written certification from the adjacent property owner(s).
3. Driveways shall not be constructed along any acceleration or deceleration lanes or tapers connecting to intersection roads.
4. Minimum spacing between a proposed driveway and another driveway or intersection, measured from the center line of the proposed driveway to the nearest right-of-way of the intersecting road, are as follows:

<b>Minimum spacing requirements</b>	
<b>Posted speed</b>	<b>Spacing dimension</b>
25 mph	145 feet
30 mph	185 feet
35 mph	245 feet
40 mph	300 feet
45 + mph	350 feet

5. In those cases where an intersection setback cannot be met, the Planning Commission may require the driveway accesses be constructed on an alternative road, or be provided through a shared driveway which meets the applicable intersection and driveway spacing requirements. Where no other alternative exists, the Planning Commission may allow construction of the driveway along the lot line farthest from the intersection or existing driveway.
6. The Planning Commission may reduce the spacing distance required, but in no case will the spacing be less than 80 percent of the spacing required.
7. Additional driveways may be permitted within the C Commercial, IND Industrial, or for commercial uses permitted within an approved planned unit development, as follows:
  - a. One additional driveway may be allowed for a site with continuous frontage of 300 feet or more, if no other access opportunities are available; or
  - b. Two additional driveways may be allowed for a site with continuous frontage of 600 feet or more, if no other access opportunities are available.
8. Additional access such as that outlined above may be allowed, if the applicant provides justification based upon standard traffic engineering criteria that encompasses analyses of trip generation, distribution, and level of service. The Township has the final decision regardless of the conclusions drawn from these analyses.

D. Residential/Farm Field Driveway Standards

One residential/farm field driveway shall be permitted for each platted lot or unplatted residential property with less than 100 feet of frontage.

E. Pre-existing Properties

For lots and properties existing prior to the adoption of the Comprehensive Ordinance Amendment, one driveway may be permitted for each separately-owned parcel with at least 100 feet of frontage, provided that the parcel is wide enough for the minimum driveway width, plus the required turning radii per the Berrien County Road Department standards. Where parcel size is insufficient, a shared driveway or other means of access may be required.

F. MDOT or Other Jurisdictional Requirements.

Whenever requirements of the Michigan Department of Transportation, or any other governmental entity given jurisdiction by MDOT, are more restrictive than the provisions of this Section, the requirements of MDOT or the other jurisdictional entity shall prevail.

## CHAPTER 14

### ZONING BOARD OF APPEALS

#### SECTION 14.01 AUTHORIZATION

In order that the objectives of the Ordinance may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public be secured, and that justice be done, there is hereby established a Zoning Board of Appeals.

#### SECTION 14.02 MEMBERSHIP - TERMS OF OFFICE

- A. The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Board.
1. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission; the second member may be a member of the Township Board; the additional members shall be selected from the electors residing in the township. The Township Board member shall not serve as chair.
  2. The additional members shall not be elected officers or employees of the Township Board. The additional members shall be appointed for three (3) year terms; the Planning Commission and Township Board representatives, who shall not be the same member, shall only serve while holding membership on those respective bodies.
- B. The Township Board may appoint up to two (2) alternate members for the same terms as the regular members.
1. An alternate may be called to serve as a regular member in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more meetings.
  2. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.
  3. The alternate member shall serve in the case until a final decision is made.
  4. The alternate member shall have the same voting rights as a regular member when called.

#### SECTION 14.03 DUTIES AND POWERS

- A. Appeals: The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Township in the administration of this Ordinance.
- B. Interpretation: The Zoning Board of Appeals shall have the power to:
1. Hear and decide upon requests for the interpretation of the provisions of this Ordinance; and
  2. Determine the precise location of boundary lines between zoning districts upon appeal from a decision by the Zoning Administrator.
- C. Variances: The Zoning Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance.

- D. The Zoning Board of Appeals shall not have the authority to approve any land use or sign type which is not permitted by this Ordinance.

#### **SECTION 14.04 MEETINGS**

Meetings shall be open to the public, and shall be held at the call of the Chairman and at other times as the Zoning Board of Appeals shall specify in its rules of procedure.

#### **SECTION 14.05 APPLICATIONS AND HEARINGS**

- A. An application to the Zoning Board of Appeals shall consist of a completed application form, provided by the Township, a fee as established by the Township Board, which shall be paid to the Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request. The Zoning Board of Appeals may request additional detail on the drawing or other information which they deem necessary to make a decision on the application.
- B. Upon receipt of a complete application the Secretary shall cause notices of the hearing to be provided as required by the Michigan Zoning Enabling Act.
- C. The Zoning Board may recess the hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

#### **SECTION 14.06 DECISIONS**

- A. The concurring vote of a majority of the total membership stated in Section 14.02, A of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator; to decide in favor of any application on any matter upon which the Board is required to pass under this Ordinance; to effect any variance in this Ordinance.
- B. The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after the scheduled hearing has been held.
- C. Any decision of the Board shall not become final until the decision of the Board has been certified in writing by the chair of the Board, or until minutes of the meeting at which final action on the request was taken are officially approved and adopted by the Zoning Board of Appeals, .
- D. The decision of the Board of Appeals shall be final; however, any person having an interest affected by the decision shall have the right of appeal to the Circuit Court on questions of law and fact.
- E. Each decision entered under the provisions of this Chapter shall become null and void unless the construction or other action authorized by the decision has been started within one (1) year after the decision was made and is being carried forward to completion or occupancy of land, premises, or buildings.
- F. No application which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the Board.

**SECTION 14.07 APPEALS**

- A. Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the Township. Applications for appeals shall be filed within thirty (30) days after the decision of the Board is certified in writing, or within twenty one (21) days after the minutes of the meeting at which final action on the request was taken are officially approved and adopted by the Zoning Board of Appeals. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of the appeal shall have been filed with him that, for 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 of Appeals or, on application, by the Berrien County Circuit Court when due cause can be shown.
- C. The Zoning Board of Appeals shall base its decision upon the record submitted to the person or body responsible for making the decision which is being appealed. No additional information or evidence shall be submitted by the appellant that was not otherwise available to the person or body making the decision from which the appeal was taken. A decision of the Zoning Board of Appeals is final. A party aggrieved by the decision may appeal to the Berrien County Circuit Court.

**SECTION 14.08 REVIEW STANDARDS FOR VARIANCES**

Dimensional Variance: A dimensional variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance; or
  2. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
  3. By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
  4. Any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary.
- B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation/ of a general regulation for the conditions or situations.
- C. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

- D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- E. The variance will not impair the intent and purpose of this Ordinance.
- F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

## CHAPTER 15

### ADMINISTRATION AND ENFORCEMENT

#### SECTION 15.01 REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance previously adopted by Bertrand Township on October 30, 2003 and all amendments thereto for each Ordinance, are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

#### SECTION 15.02 INTERPRETATION

- A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.
- B. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any other rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.
- C. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

#### SECTION 15.03 ZONING ORDINANCE AMENDMENTS, INITIATION

- A. All applications for amendments to the Zoning Ordinance and “Zoning Map,” shall be submitted to the Zoning Administrator at least thirty (30) days prior to the first consideration by the Planning Commission.
- B. Requests for amendments to the Zoning Ordinance may be initiated in writing by the owner of the property requested for rezoning, or his/her authorized representative. Requests may also be made by the Township Staff, Planning Commission or the Township Board through official action taken at a public meeting which has been properly noticed as required by law.
- C. In the case of an amendment requested by a property owner or his/her authorized representative, the request shall include the following:
  - 1. Completion of a Zoning Amendment Application as provided by the Zoning Administrator. An application shall include:

- a. The name and address of the person making the request and all persons having a legal or equitable interest in any land which is requested to be rezoned.
  - b. Property description.
  - c. In the case of a text amendment, the specific section to be amended and the proposed text change.
  - d. If a change in the zoning map is requested, the common address, legal description of the area requested for change, and present and proposed district classifications shall be provided. The applicant shall also indicate by a scaled map, the location of the property requested for rezoning.
  - e. The nature of the amendment shall be fully described in writing.
  - f. Payment of all fees as required by the Township.
2. If, in the opinion of the Zoning Administrator, Planning Commission, or Township Board, the information submitted does not provide a clear delineation of the specific area to be rezoned, the Zoning Administrator, Planning Commission, or Township Board may require the applicant to submit a boundary survey of the property in question. The survey shall include a written legal description and drawing of the area to be rezoned. The boundary survey, including legal description and map, shall be completed by a Land Surveyor licensed by the State of Michigan.

#### **SECTION 15.04 AMENDMENT PROCEDURE**

- A. After submission of the application and fee, amendments to this Ordinance shall be processed as provided in the Michigan Zoning Enabling Act.
- B. The following guidelines shall be used by the Planning Commission, and may be used by the Township Board in consideration of amendments to the Zoning Ordinance:
  1. Text Amendment:
    - a. The proposed text amendment would clarify the intent of the Ordinance.
    - b. The proposed text amendment would correct an error in the Ordinance.
    - c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
    - d. The proposed text amendment would promote compliance with changes in other Township, County, State, or Federal regulations.
    - e. In the event the amendment will add a use to a District, that use shall be fully consistent with the character of the range of uses provided for within the District.
    - f. The amendment shall not result create incompatible land uses within a Zoning District, or between adjacent Districts.
    - g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
    - h. As applicable, the proposed change shall be consistent with the Township's ability to provide adequate public facilities and services.
    - i. The proposed change shall be consistent with the Township's desire to protect the public health, safety, and welfare of the Township.



2. Map Amendment. (Rezoning): In making its recommendation to the Township Board, the Planning Commission shall consider the following criteria:
  - a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of Bertrand Township Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.
  - b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed Zoning District shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
  - c. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.
  - d. Other factors deemed appropriate by the Planning Commission.
- C. Consideration of Amendment by the Township Board: Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Michigan Zoning Enabling Act, the Township Board may modify the proposed amendment or adopt it as presented by the Planning Commission.

## SECTION 15.05 ZONING AGREEMENTS

- A. Purpose. It is recognized that there are certain instances where it would be in the best interests of the township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- B. Application and Offer of Conditions.
  1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
  2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
    - a. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
    - b. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
    - c. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.

- d. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this ordinance.
  - e. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
  - f. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- C. **Planning Commission Review.** The Planning Commission, after public hearing and consideration of the factors for rezoning, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- D. **Township Board Review.** After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with MCL 125.3401, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.
- E. **Approval.**
1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
  2. The Statement of Conditions shall:
    - a. Be in a form recordable with the Register of Deeds of Berrien County or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
    - b. Contain a legal description of the land to which it pertains.
    - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
    - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are

- incorporated by reference, the reference shall specify where the document may be examined.
- e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the township with the Register of Deeds of Berrien County.
  - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
  4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of Berrien County. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the township or to any subsequent owner of the land.
  5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.
- F. Compliance with Conditions.
1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
  2. No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable Statement of Conditions.
- G. Time Period for Establishing Development or Use. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if:
1. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and
  2. The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- H. Reversion of Zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection G, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 et seq. The reversion process shall be initiated by the

Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

- I. Subsequent Rezoning of Land. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to paragraph H of this Section or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.
- J. Amendment of Conditions.
  - 1. During the time period for commencement of an approved development or use specified pursuant to subsection G or during any extension thereof granted by the Township Board, the township shall not add to or alter the conditions in the Statement of Conditions.
  - 2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- K. Township Right to Rezone. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Zoning Enabling Act (MCL 125.1301 et seq.)
- L. Failure to Offer Conditions. The township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.

**SECTION 15.06 REMEDIES AND ENFORCEMENT**

- A. Violation. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- B. Penalties. Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
-1st Offense	\$ 75.00	\$500.00
-2nd Offense	\$150.00	\$500.00
-3rd Offense	\$325.00	\$500.00
-4th or More Offense	\$500.00	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Bertrand Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

- C. Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.
- D. Enforcement. The Bertrand Township Zoning Administrator, the Bertrand Township Ordinance Enforcement Officer, any Berrien County Sheriff's Deputy and any other individual Township official(s) that may from time to time be designated shall administer this Ordinance and are hereby authorized and empowered to investigate violations and to issue notices of violation and citations for violation of the same.
- E. The Township Board for Bertrand Township or their duly authorized representative(s), is hereby charged with the duty of enforcing the Ordinance and the Township Board are hereby empowered, in the name of Bertrand Township, to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Berrien County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by this non-compliance or violation may institute suit and/or join the Township Board in the suit to abate the same.
- F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

#### **SECTION 15.07 PUBLIC NUISANCE, PER SE**

Any building or structure which is erected, repaired, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

#### **SECTION 15.08 ADMINISTRATIVE AND ESCROW FEES**

- A. Any application shall be accompanied by a fee, in an amount to be established by the Township Board by resolution. The application fee shall be for the purpose of payment for the administrative costs and services expended by the Township in the implementation of this Chapter and the processing of the application. No part of this fee shall be refundable.
- B. A separate deposit may be collected from the applicant, as determined by the Township Board, and used to reimburse another party retained by the Township to provide expert consultation and advice including but not limited to legal, planning, and engineering professionals regarding the application. The basis for the amount of the deposit must be based on a reasonable estimate to provide these services. Any unused portions of this fee shall be returned to the applicant after all costs have been received by the Township. In addition to regularly established fees, the Township Board in its discretion may also require an applicant to submit to the Township an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any application or related matters. The estimated fee and costs shall be submitted prior to any Township review of an application or request.
- C. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded to the applicant.

**SECTION 15.09 PERFORMANCE GUARANTEES**

- A. The Zoning Administrator, Planning Commission, Board of Appeals, and Township Board are empowered to require a performance guarantee in the form of a bond, cashier's check, cash, letter of credit or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project that is the subject of the guarantee.
- B. A performance guarantee shall be deposited with the Township Clerk at the time of the issuance of the permit by the Township authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan. If the improvements are not completed, the security shall be forfeited, either in whole or in part.
- C. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.
- D. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned performance guarantee may be used by the Township to complete the required improvements. The balance if any shall be returned to the depositor.

**SECTION 15.10 FEES**

- A. The Township Board shall, by resolution, establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during regular office hours at the Township Hall. The fees may be changed from time to time by resolution of the Township Board.
- B. The applicant shall pay all applicable fees upon the filing of any application, proposed site plan, or any other request or application under this Ordinance for which a fee is required.
- C. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except as authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part.

**SECTION 15.11 ZONING PERMITS**

- A. No dwelling, building or structure subject to the provisions of this Ordinance shall be erected, altered, enlarged or moved upon any lot or premises until a zoning permit has been issued by the Zoning Administrator in conformity with the provisions of this Ordinance. The permit shall be nontransferable and shall be good for one (1) year with the right of renewal in the discretion of the Zoning Administrator upon proper application and must be granted before any work of excavation, construction, alteration, enlargement or movement is begun.
- B. All applications for a zoning permit shall be submitted to the Zoning Administrator and shall be accompanied by a site plan as set forth in Chapter 12 of this Ordinance.
- C. For each zoning permit issued a fee shall be charged as set forth in Section 15.10 of this Ordinance. No zoning permit shall be valid until the required fee has been paid. Zoning permits may be renewed for a second year at no cost when no significant changes of plans have occurred.

When significant changes, if determined by the Zoning Administrator, have occurred, a new application for zoning permit and fee shall be required.

- D. Nothing in this Section of the Zoning Ordinance shall be construed as to prohibit the applicant or their agent from preparing their own plans and specifications, provided the same are clear and legible and adhere to the required information as set forth in this Ordinance.
- E. Permit Revocation
1. The Zoning Administrator shall have the authority to revoke or otherwise cancel any zoning permit issued in cases of failure and/or neglect to comply with any of the provisions of the Ordinance, conditions of approval, or in the case of false statement or misrepresentation made by the applicant.
  2. Written notice of the revocation or cancellation of the zoning permit shall be provided by certified mail or personal delivery by the Zoning Administrator to the applicant or holder of the permit as soon as practicable, but in no case more than five (5) days after the revoking or canceling of the permit.
  3. The applicant or holder of the zoning permit shall have the right of appeal to the Board of Appeals in accordance with the provisions of Section 14.07.
- F. Accessory buildings when erected at the same time as the principal building on a lot and shown on the application thereof shall not require a separate zoning permit.
- G. If construction on a building or structure is lawfully begun prior to adoption of this ordinance, nothing in this ordinance shall be deemed to require any changes in the planned or designed use of any building, provided that actual construction is being diligently carried on, and further provided that the building shall be entirely completed for its planned or designed use within two (2) years from the effective date of this ordinance.

#### **SECTION 15.12 STOP WORK ORDERS**

- A. Notice to Owner: Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is occurring that is contrary to the provisions of this Ordinance, the work or use shall be immediately stopped. The Stop Work Order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. Unlawful Continuance: Any person who shall continue to work in or about the structure, land or building, or use after having been served with a Stop Work Order, except work that is directed to perform to remove a violation or correct an unsafe condition, shall be in violation of this Ordinance.

#### **SECTION 15.13 PROPERTY SURVEYS**

If the Zoning Administrator in the performance of his duties under this Ordinance (or the Planning Commission, Board of Appeals, or Township Board pursuant to their zoning review and approval powers under this Ordinance) shall deem it necessary that a survey be done by a professional surveyor or engineer for property at issue (including a written drawing and stakes set on the property boundaries or corners) in order to insure that all requirements of this Ordinance will be met, the survey and related information may be required by the Township and shall be paid for and provided by the property owner or



applicant and no building permit or other Township permit(s) shall be issued or approved until and unless the survey and related information has been provided to the Township.

#### **SECTION 15.14 ZONING ADMINISTRATOR**

- A. The Township Board shall appoint a Zoning Administrator. A Deputy Zoning Administrator, authorized to act during periods of absence of the Zoning Administrator, with the same powers as granted the Zoning Administrator, may be appointed by the Township Supervisor with the approval of the Township Board.
- B. The Zoning Administrator and Deputy shall not be members of the Township Board, Planning Commission, or Board of Appeals.
- C. The Zoning Administrator and Deputy shall be appointed for a term and subject to the conditions and at a rate of compensation as the Township Board determines.
- D. The Township Board may instruct the Zoning Administrator in writing to initiate an enforcement action or other legal action as may be permitted by this Ordinance. The Zoning Administrator shall keep a record of every written complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint. These records shall be a matter of public record.
- E. Reports
  - 1. The Zoning Administrator shall prepare and file an annual report to the Township Board on the operation of the Zoning Ordinance including recommendations as to the enactment of any changes, amendments, or supplements to the Zoning Ordinance.
  - 2. The Zoning Administrator shall issue to the Township Board a semiannual report on permits issued, variances issued, special use permits and complaint of violation and the action taken thereon.
- F. Duties and Responsibilities – The Zoning Administrator shall:
  - 1. Administer the provisions of this Zoning Ordinance.
  - 2. Be authorized to review applications for zoning permits as set forth in this Ordinance and to grant or deny these permits.
  - 3. Shall ensure that complete files are kept regarding all administrative matters associated with this Ordinance.
  - 4. Refer all matters that relate to the Township Board, Planning Commission, or Board of Appeals as set forth in this Ordinance.
  - 5. Be empowered to make inspections of buildings or premises in order to properly administer and enforce this Ordinance.
- G. Should the Zoning Administrator have a personal or financial interest in the use of land, or the construction of any dwelling, building or structure subject to the provisions of this Ordinance, the Deputy Zoning Administrator shall examine the plans, inspect the dwelling, building or structure and issue the necessary permits, approvals and certificates.

#### **SECTION 15.15 SEVERABILITY**

The Ordinance and various Chapters, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any Chapter, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.



**SECTION 15.16 ENACTMENT**

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a "Notice of Adoption" in a newspaper circulating within the Township. This Zoning Ordinance was adopted by the Bertrand Township Board on \_\_\_\_\_, 2018.

