

*Township of Buchanan, MI  
Tuesday, June 7, 2022*

## Chapter 300. Zoning

[HISTORY: Adopted by the Township Board of the Township of Buchanan 10-21-2010, as amended through 12-7-2017 by Ord. No. 110-2017. Subsequent amendments noted where applicable.]

### **ATTACHMENTS**

**Attachment 1 - Zoning Map of Buchanan Township** 

## Article I. Scope; Title; Construction

### § 300-1.01. Short title.

This chapter shall be known and may be cited as the "Township of Buchanan Zoning Ordinance." Within the following text it may be referred to as the "Ordinance" and all references to "this Ordinance" shall mean the Township of Buchanan Zoning Ordinance, unless another meaning is clear from the context of such reference.

### § 300-1.02. Conflicting regulations.

Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern.

### § 300-1.03. Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered, and no land use commenced or continued within the unincorporated parts of the Township, contrary to the spirit of this chapter, except for the provisions of essential services, agricultural buildings exempt from Public Act 230 of 1972, as amended (State Construction Code Act, Section 2A, MCLA § 125.1502a), or as specifically authorized by this chapter. Special uses are granted by the Township only upon finding that specified conditions are met in accordance with Article **XXIV** of this chapter.

### § 300-1.04. Use regulations.

Except as otherwise provided herein, regulations governing land and building use are hereby established in each district specified in Article **III** of this chapter. Uses permitted in each district as special uses shall be permitted only in accordance with the special use permit standards and procedures of this chapter as established in Article **XXIV**.

### § 300-1.05. Unclassified uses.

Where a proposed use of land or use of a building is not expressly authorized, contemplated or named by this chapter in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use that involves other features which are not expressly authorized, contemplated or specified in this chapter, the Zoning Administrator may determine that the use is unclassified. In the case of any unclassified use, an amendment to classify, permit and regulate the use may be initiated pursuant to Article **XXVIII**. Unclassified uses may not be treated as a special land use.

## § 300-1.06. Land required to satisfy regulations.

No portion of a lot used in or necessary for compliance with the provisions of this chapter shall, through sale or otherwise, be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

## § 300-1.07. Public utility facilities.

When operating requirements necessitate the locating of public utility facilities and uses (without storage yards) within a district in order to serve the immediate vicinity, such facilities shall be permitted by the Board of Trustees in all zoning districts subject to review and approval of a submitted site plan, and a recommendation by the Planning Commission that the use is compatible to the surrounding area.

# Article II. Zoning Definitions

## § 300-2.01. Interpretation of language.

For the purpose of this chapter, the following rules of interpretation shall apply to the text of this chapter:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The words "may" or "should" are permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, a firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two or more items, conditions, provision, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:
  - (1) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - (2) "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.

- (3) "Either . . . or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them, with reference made to the latest edition of Merriam-Webster's Collegiate Dictionary.

## § 300-2.02. Definitions.

For the purpose of this chapter, the terms and words herein are defined as follows:

### **ACCESSORY USE, BUILDING OR STRUCTURE**

A use, building or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same lot as the principal use to which it is exclusively related; also, sleeping cottages on summer resort property, farm outhouses, stables, barns or other buildings located upon lands being used for farming or truck gardening and for the purpose of carrying on such business upon the premises.

### **ADULT BOOKSTORE**

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

### **ADULT DAY-CARE FACILITY**

A facility that provides daytime care for any part of a day but less than twenty-four-hour care for functionally impaired adult persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed; however, those receiving funds through an area agency on aging must comply with adult day-care standards promulgated by the Michigan Office of Services to the Aging.

### **ADULT FOSTER CARE**

See "state licensed residential facility."

### **ADULT USE**

Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion-picture theaters, adult mini-motion-picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually oriented entertainment.

### **AGRICULTURAL USE**

A use of any land or building used for a purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops and animal husbandry.

### **ALLEY**

A public way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation. Neither the Township, nor the Road Department, is responsible for maintaining the alley way.

### **ALTERATIONS**

Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use."

**ANIMAL HOSPITAL**

See "clinic, veterinary."

**ANIMAL UNITS**

An equivalency unit used to measure the impact of livestock on land uses and natural features.

**ANIMAL, DOMESTICATED**

Any domesticated animal which is not livestock and the ownership of which is not prohibited by law. No animal or fowl shall be kept or maintained which is dangerous and a threat to public health, safety or welfare except as authorized by MCLA § 287.321 et seq.

**ANTENNA**

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

**APARTMENT**

See "dwelling, multiple-family."

**APPEAL**

A request or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this chapter.

**ARCHITECTURAL FEATURES**

Architectural features of a building, including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

**AUTOMOBILE**

Unless specifically indicated otherwise, "automobile" shall mean any vehicle, including cars, trucks, vans, motorcycles, and the like.

**AUTOMOBILE FUELING STATION**

A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile fueling stations may also incorporate a convenience store operation fueling station use.

**AUTOMOBILE REPAIR**

Major or minor repair of automobiles defined as follows:

**A. MINOR REPAIR**

Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

**B. MAJOR REPAIR**

Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**AUTOMOBILE REPAIR GARAGE**

A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

**AUTOMOBILE SERVICE STATION**

A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight. An automotive service station shall not include bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

**AUTOMOBILE WASH ESTABLISHMENT**

An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles, either with self-service mechanisms or with the use of an automated system.

**BAR, COCKTAIL LOUNGE or NIGHTCLUB**

An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where more than 30% of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customer, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and similar mechanical amusement devices.

**BASEMENT**

That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling.

**BED-AND-BREAKFAST INN**

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation by the owners and residents therein, said facilities may include meal service and shall extend for not more than 14 consecutive days.

**BEDROOM**

Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgment of the Township Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

**BERM**

See "landscaping."

**BILLBOARD (OFF-PREMISES SIGN)**

A sign directing attention to a use, activity or product not located, sold, manufactured or processed on the premises on which the sign is located.

**BLOCK**

The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Township, or any other barrier to the continuity of development.

**BOARD OF APPEALS**

The Township of Buchanan Zoning Board of Appeals, created pursuant to the provisions of the Michigan Zoning Enabling Act, Act 110 of 2006, MCLA § 25.3101 et seq., as amended.

**BOAT**

See "recreational vehicle."

**BOAT LAUNCH**

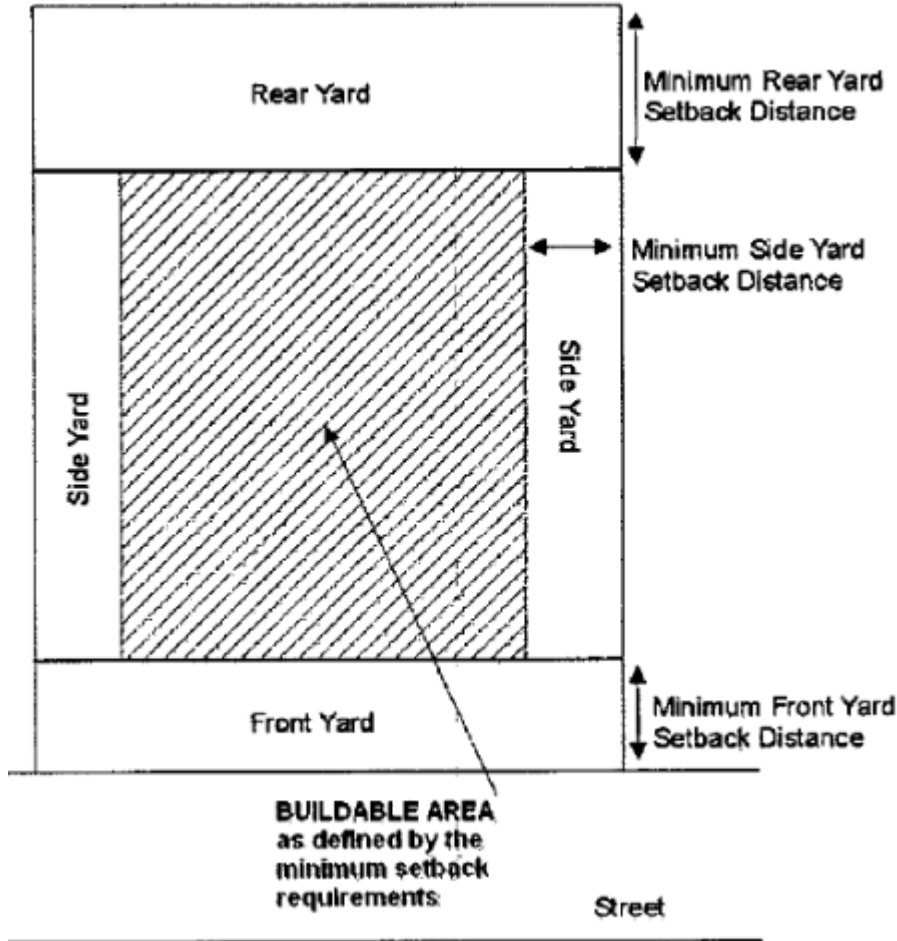
Facility to launch and retrieve recreational boats from a trailer.

**BUFFER ZONE**

A strip of land often required between certain zoning districts or land uses reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

**BUILDABLE AREA**

The area of a lot that is defined by the minimum setback requirements within which building construction is permitted by the terms of this chapter.

**BUILDING**

As defined in the current edition of the adopted Building Code, "building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property.

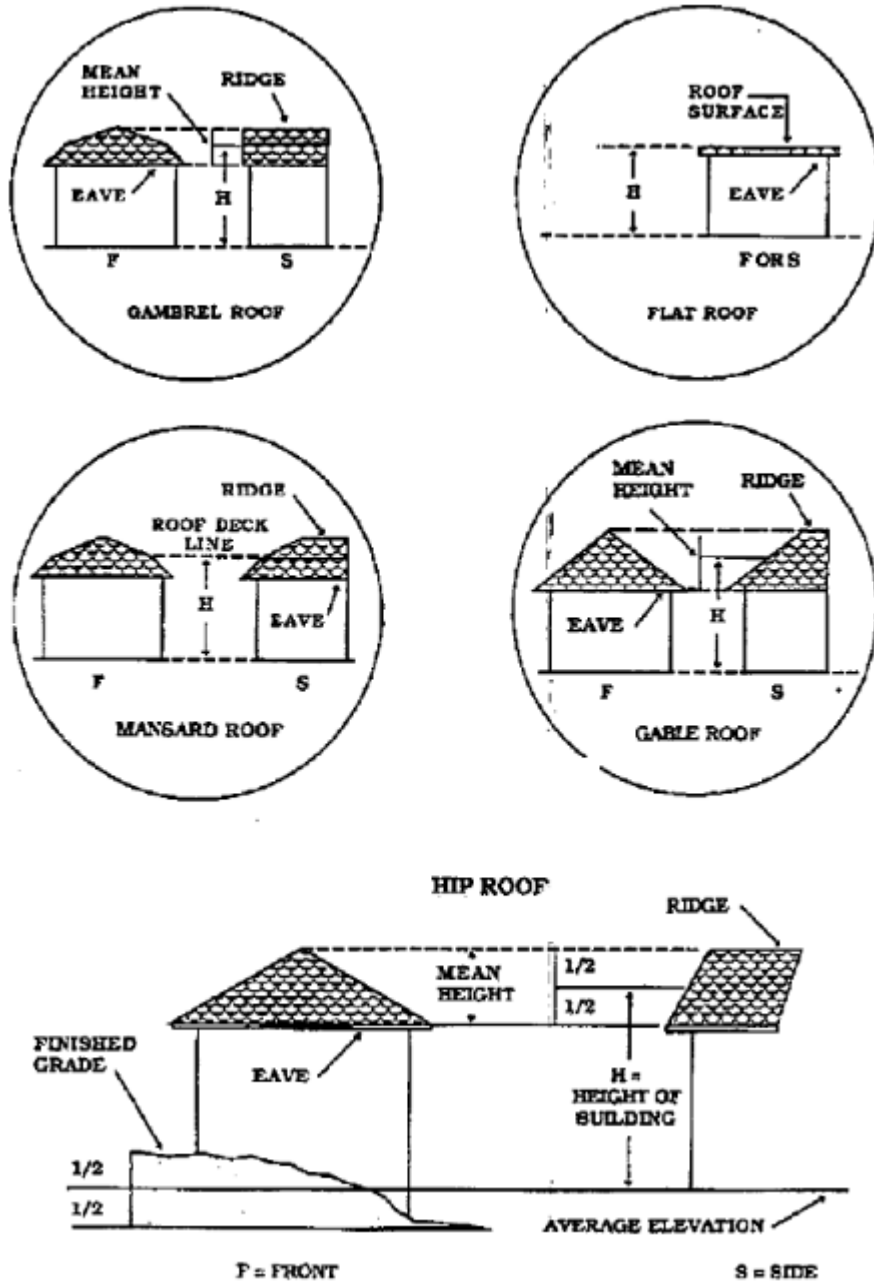
**BUILDING CODE**

The building code as currently enforced pursuant to the State of Michigan.

**BUILDING HEIGHT**

The vertical distance measured from the average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75% of the height of an "A" frame.

**BUILDING HEIGHT**



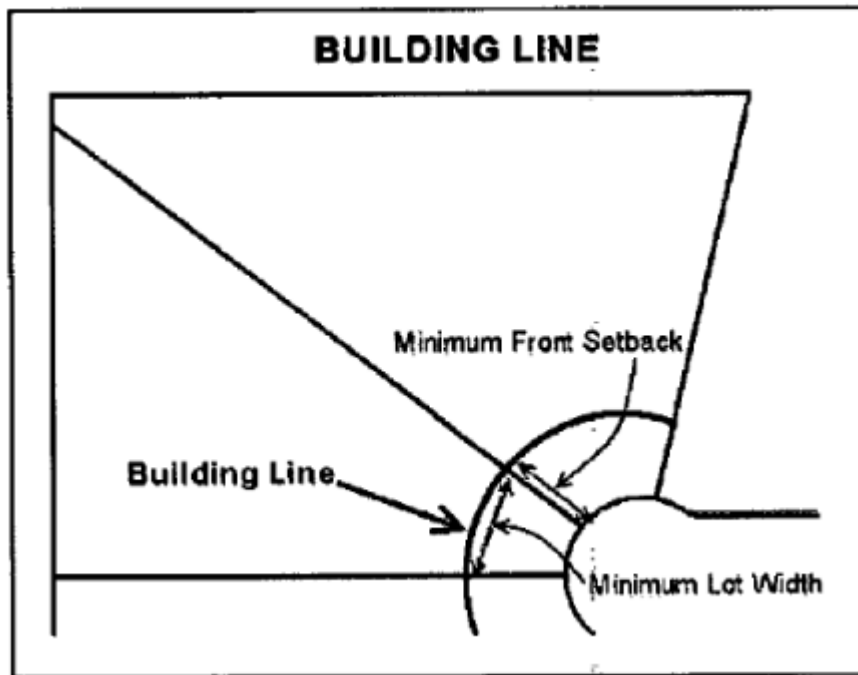
**BUILDING INSPECTOR**

The Building Inspector as authorized by the Township of Buchanan and as registered under the Skilled Trades Regulation Act, MCLA § 339.6001 et seq., Building Officials and Inspectors, qualified by experience or training to perform the duties associated with construction code administration and enforcement.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**BUILDING LINE**

A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this chapter, a minimum building line is the same as a required setback line.



### **BUILDING PERMIT**

The written authority issued by the Building Inspector permitting the construction, removal, moving, alteration, or use of a building in conformity with the provisions of this chapter.

### **BUILDING, ACCESSORY**

See "accessory use, building or structure."

### **BUILDING, COMPLETELY ENCLOSED**

A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only window and normal entrance or exit doors.

### **BUILDING, PRINCIPAL**

A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "building, accessory" and "use, principal.")

### **BUILDING, TEMPORARY**

A building which is not permanently affixed to the property and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on a construction site.

### **BUMPER BLOCKS**

Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles.

### **CAMPER, PICKUP**

A recreational unit designed to be mounted on a pickup or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

### **CEMETERY**

Land used for the burial of the dead, including columbariums, crematories, and mausoleums.

### **CERTIFICATE OF OCCUPANCY**

A certificate issued by the Building Inspector when the work covered by a building and/or zoning permit has been completed in accordance with the permit, the building and zoning codes, and



other applicable laws and ordinances. (See also MCLA § 125.1513, Certificate of use and occupancy, necessity, issuance, contents, applications, inspections, temporary certificates.)

### **CHILD-CARE CENTER**

An establishment where more than 12 children, not related by bonds of blood, marriage or adoption to the family residing on the same premises, are cared for in return for remuneration. Such child-care centers need not have a resident family on the premises. A child-care center may also sometimes be referred to as a "nursery," "day nursery," "day-care center," or "nursery school."

### **CHILD-CARING INSTITUTION**

A child-care facility that is organized for the purposes of receiving minor children for care, maintenance, and supervision, usually on a twenty-four-hour basis, in buildings maintained by the child-caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. A child-caring institution may include a maternity home for the care of unmarried mothers who are minors and it includes an agency group home, which is described as a small child-caring institution owned, leased, or rented by a licensed agency providing care for more than four but fewer than 13 minor children. A child-caring institution may also include institutions for mentally impaired or emotionally disturbed minor children. "Child-caring institution" does not include a hospital, nursing home, or home for the aged licensed under Article 17 of the Public Health Code, 1978 PA 368, MCLA §§ 333.20101 to 333.22260; a boarding school licensed under Section 1335 of the Revised School Code, 1976 PA 451, MCLA § 380.1335; a hospital or facility operated by the state or licensed under the Mental Health Code, 1974 PA 258, MCLA §§ 330.1001 to 330.2106; or an adult foster care family home or an adult foster care small group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCLA §§ 400.701 to 400.737, in which a child has been placed under Section 5(6).

### **CHURCH or SYNAGOGUE**

Any structure wherein persons regularly assemble for religious activities, including customary ancillary or accessory uses and activities.

### **CLIMATE-CONTROLLED STORAGE FACILITY:**

An enclosed building consisting of individual, self-contained rooms that are leased to individuals, organizations or businesses for climate-controlled storage regulating both temperature and humidity.

[Added 12-19-2019 by Ord. No. 118-2019]

### **CLINIC, MEDICAL**

An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

### **CLINIC, VETERINARY**

A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

### **CLUB OR LODGE, PRIVATE**

A nonprofit association of persons who are bona fide members paying dues which owns or leases the premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this chapter.

### **CLUB, HEALTH**

Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, or tanning salons.

**CLUSTER HOUSING**

A group of buildings or dwellings built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**COLLECTOR STREET**

See, within the definition of "street," "collector street."

**COMMERCIAL CENTER, PLANNED**

A business development under single ownership consisting of two or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

**CONDOMINIUM**

A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

**A. CONDOMINIUM ACT**

State of Michigan Public Act 59 of 1978, MCLA § 559.101 et seq., as amended.

**B. CONDOMINIUM UNIT SITE (i.e., SITE CONDOMINIUM LOT)**

The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot" for purposes of determining compliance of a site condominium subdivision with the provisions of this chapter pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

**C. CONDOMINIUM SUBDIVISION PLAN**

Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, MCLA § 559.166, as amended.

**D. CONDOMINIUM, CONTRACTIBLE**

A condominium project from which any portion of the submitted land or building may be withdrawn pursuant to express provisions in the condominium documents.

**E. CONDOMINIUM, CONVERSION**

A condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.

**F. CONDOMINIUM, CONVERTIBLE AREA**

A unit or portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this chapter and the Condominium Act.

**G. CONDOMINIUM, EXPANDABLE**

A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this chapter and the Condominium Act.

**H. CONDOMINIUM, GENERAL COMMON ELEMENT**

The common elements other than the limited common elements intended for the common use of all of the co-owners.

**I. CONDOMINIUM, LIMITED COMMON ELEMENT**

A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

#### **J. CONDOMINIUM, SITE CONDOMINIUM PROJECT**

A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this chapter.

#### **CONDOMINIUM UNIT**

The portion of the condominium project designed and intended for separate ownership as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

#### **CONSTRUCT**

To build, erect, alter, repair, or remodel any building, structure, or dwelling.

#### **CONTRACTORS' STORAGE YARD**

An unenclosed portion of the lot or parcel upon which a construction or similar contractor stores and maintains construction equipment, machinery, and other items customarily used in the trade carried on by the contractor.

#### **CORNER LOT**

See "lot, corner."

#### **CUL-DE-SAC**

See within the definition of "street," "cul-de-sac."

#### **CURB CUT**

The entrance to or exit from a property, provided for vehicular traffic to or from a public or private thoroughfare.

#### **CURB LEVEL**

The level of the established curb in front of the building measured at the entrance of such front. Where no curb has been established, the County or Township Engineer shall establish such curb level or its equivalent for the purpose of this chapter.

#### **DAY CARE**

See "child-care center," "group day-care home," "family day-care home," and "state licensed residential facility."

#### **DECK**

An open, horizontal platform attached to the rear or side of the principal structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

#### **DENSITY**

The number of dwelling units situated on or to be developed per acre of land.

#### **DENSITY, NET**

The number of dwelling units situated on or to be developed per acre of land, excluding areas where the use is prohibited by this chapter, local, county, state or federal law. Such areas include public rights-of-way, regulated wetlands, and riparian or lacustrine areas.

#### **DETENTION FACILITY**

A facility designed for holding stormwater runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle.

#### **DEVELOPMENT**

The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DISTRICT**

A portion of the Township of Buchanan within which, on a uniform basis, certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

**DOCK, COMMUNITY**

A fixed or floating structure, including moorings, operated by a nonprofit organization, campground, RV park, government entity, neighborhood lake association, or other similar organization, used for the purpose of berthing buoyant vessels to members or patrons and not the general public. A community dock may include a boat livery, boat yard, or pier.

**DOCK, PRIVATE**

A fixed or floating structure, including moorings, that may be accessory to a private residence on the same parcel and used for the purpose of berthing buoyant vessels.

**DRAINAGE WAYS and STREAMS**

Existing permanent or intermittent watercourses.

**DRIVE-IN ESTABLISHMENT**

A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicles. Examples include, but are not limited to, restaurants, cleaners, banks, and theaters.

**DRIVE-THROUGH ESTABLISHMENT**

A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off-premises may be facilitated.

**DUMPSTER**

A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two cubic yards.

**DUPLEX**

See "dwelling, two-family or duplex."

**DWELLING**

A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists' homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling.

**DWELLING UNIT**

One or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one family for living, cooking, and sleeping purposes.

**DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE**

An attached single-family dwelling unit with party walls, designed as part of a series of three or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

**DWELLING, MANUFACTURED**

- A. A building or portion of a building designed for long-term residential use and characterized by all of the following:
- (1) The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
  - (2) The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
  - (3) The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.
- B. Also refer to "dwelling, one-family or single family."

### **DWELLING, MOBILE HOME**

A structure, transportable in one or more sections, which is built upon a chassis and designed to be used as a dwelling with a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this chapter. A mobile home is a type of manufactured housing. Also see "dwelling, one-family or single-family."

### **DWELLING, MULTIPLE-FAMILY**

A building designed for and occupied by three or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwelling units include the following:

#### **A. APARTMENT**

An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly accessed via a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.

#### **B. EFFICIENCY UNIT**

An efficiency unit is a type of multiple-family or apartment unit consisting of one principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

### **DWELLING, ONE-FAMILY OR SINGLE-FAMILY**

A detached building containing not more than one dwelling unit designed for residential use, designed exclusively to be occupied by one family living independently, with separate housekeeping, cooking, and bathroom facilities.

### **DWELLING, TWO-FAMILY OR DUPLEX**

A detached building, designed exclusively to be occupied by two families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

### **EASEMENT**

Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

### **EFFICIENCY UNIT**

See "dwelling, multiple-family."

### **ELEVATION**

- A. The vertical distance above or below a fixed reference level;

- B. A fully dimensioned drawing of the front, rear, or side of a building showing features such as windows, doors, building materials, and relationship of grade to floor level.

### **ERECTED**

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 or quasi-public utilities or municipal departments or Township-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Telecommunication towers or facilities, alternative tower structures, and wireless communication facilities antenna are specifically excluded from this definition.

### **EVENT VENUES**

An accessory use for the purpose of private social events not open to the general public, including, but not limited to; weddings, wedding rehearsals, or wedding parties, with or without live entertainment, where food and drink may be consumed on-site, but which provides no overnight accommodations.

[Added 12-3-2020 by Ord. No. 121-2020]

### **EXCAVATION**

The removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever shall be the highest, excluding common household gardening and ground care.

### **FAMILY**

- A. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, nontransient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

### **FAMILY DAY-CARE HOME**

A private home in which more than one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. A family day-care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

### **FARM**

All of the contiguous neighboring or associated land operated as a single unit for agricultural use, as defined herein, by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments

operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries.

## **FENCE**

A structure of definite height and location intended to serve as a physical barrier to property ingress or egress, a screen from objectionable vista or noise, a marker, an enclosure in carrying out the requirements of this chapter, or for decorative use.

## **FILL or FILLING**

The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

## **FINANCIAL INSTITUTION**

An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange.

## **FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source.

### **A. FLOOD HAZARD AREA**

Land which on the basis of available floodplain information is subject to a 1% or greater chance of flooding in any given year.

### **B. FLOOD HAZARD BOUNDARY MAP (FHBM)**

An Official Map of the community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard areas have been designated as Zone A.

### **C. FLOOD INSURANCE RATE MAP (FIRM)**

An Official Map of a community, issued by the Federal Emergency Management Agency (FEMA), which has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

### **D. FLOOD INSURANCE STUDY**

The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map, and the water surface elevation of the base flood.

### **E. FLOODING, AREA OF SHALLOW**

A designated area or zone on the Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

### **F. FLOODING, ORDINARY HIGH-WATER MARK**

See "high-water mark, ordinary."

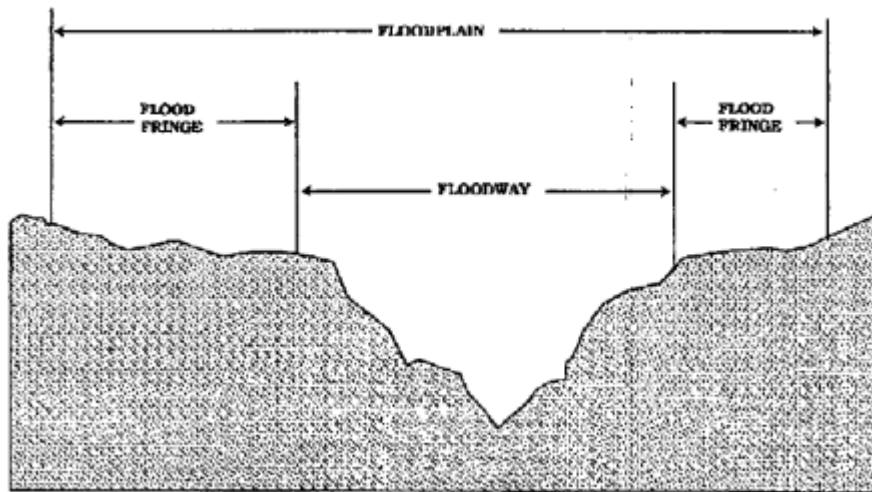
### **G. FLOODPLAIN**

Any land area susceptible to being inundated by water from any source. See "flood or flooding."

### **H. FLOODWAY**

The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.

## **FLOODWAY, FLOODPLAIN AND FLOOD FRINGE**



## FLOOR AREA

The area of a building defined as follows.

### A. FLOOR AREA, GROSS

The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

### B. FLOOR AREA, NET

See "floor area, usable residential" and "floor area, usable nonresidential."

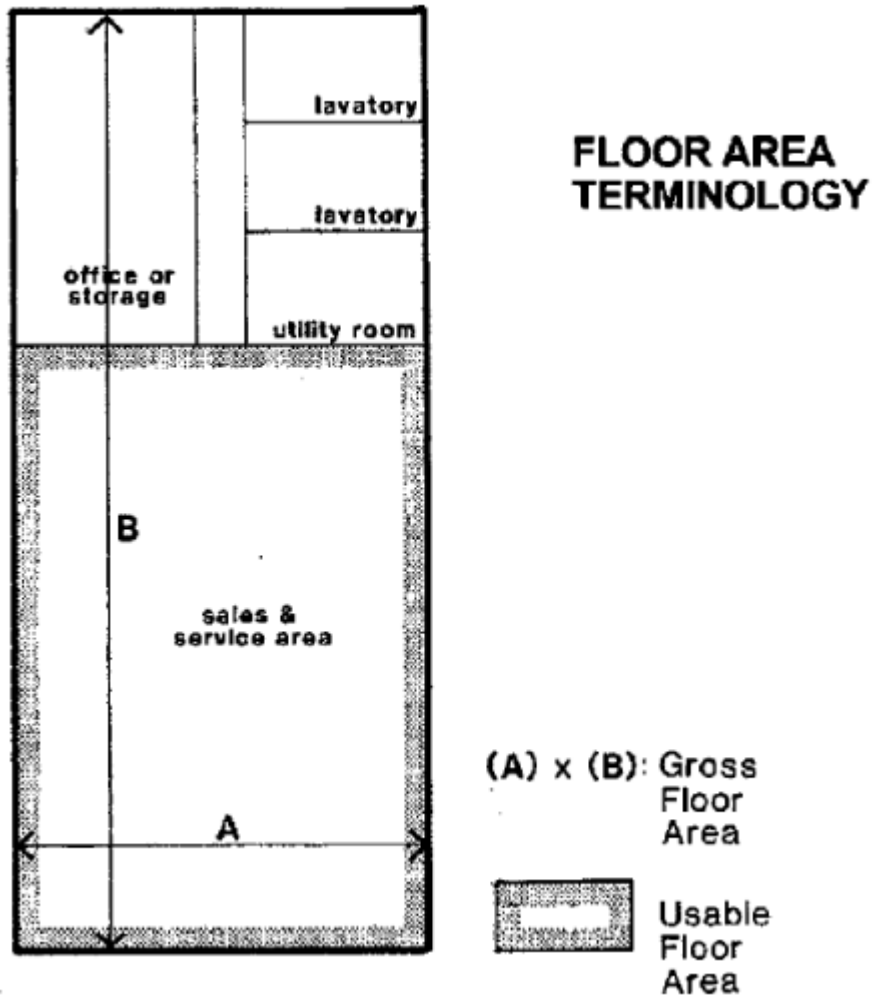
### C. FLOOR AREA, USABLE RESIDENTIAL

The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.

### D. FLOOR AREA, USABLE NONRESIDENTIAL

The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise, or for utilities, shall be excluded from the computations of usable nonresidential floor area.



**FOSTER CARE HOME**

See "state licensed residential facility."

**FRONT LOT LINE**

See, within the definition of "lot lines," "front lot line."

**FRONT YARD**

See, within the definition of "yard," "yard, front."

**FUELING STATION**

See "automobile fueling station."

**GARAGE, PRIVATE**

An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

**GARAGE, PUBLIC**

Any building or premise, other than junkyard, where more than one motor vehicle is stored for compensation. A building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing vehicles.

**GARAGE, REPAIR**

See "automobile repair garage."

**GARBAGE**

All waste, animal, fish, fowl, or vegetable matter incident to the preparation, use, and storage of food for human consumption, including spoiled food.

**GARDEN CENTER**

An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, landscaping materials, and equipment.

**GAS STATION**

See "automobile fueling station" and "automobile service station."

**GOLF COURSE or COUNTRY CLUB**

The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

**GOLF DRIVING RANGE**

An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

**GRADE**

- A. The elevation of the land;
- B. The percent rise or descent of a sloping surface.

**GRADE, AVERAGE**

The arithmetic average of the lowest and highest grade elevations of a lot or parcel.

**GRADE, FINISHED**

The lowest point of elevation between the exterior wall of the structure and a line five feet from the exterior wall of the structure.

**GREENWAY**

See "landscaping."

**GROUP DAY-CARE HOME**

A private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. A group day-care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

**GROUP HOMES**

See "state licensed residential facility."

**GUESTHOUSE**

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

**GYM or GYMNASIUM**

A room or building equipped for gymnastics, exercise, or sport.

**HAZARDOUS SUBSTANCES**

Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities.

**HEIGHT, BUILDING**

See "building height."

### **HIGH-WATER MARK, ORDINARY**

The line between upland and bottomland that 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. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark (as defined in MCLA § 324.30101(i), Michigan Natural Resources and Environmental Protection Act, Part 301, Inland Lakes and Streams).

### **HIGHWAY**

See "street."

### **HOME OCCUPATION**

Any occupation conducted within a dwelling unit and carried on by the inhabitants thereof. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby.

### **HOSPITAL**

An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

### **HOSPITAL, VETERINARY**

See "clinic, veterinary."

### **HOUSING, ELDERLY**

An institution other than a hospital or hotel, which provides room and board to nontransient persons primarily 55 years of age and older. Housing for the elderly may include:

#### **A. SENIOR APARTMENTS**

Multiple-family dwelling units occupied by persons 55 years of age or older.

#### **B. ELDERLY HOUSING COMPLEX**

A building or group of buildings containing dwellings where the occupancy is restricted to persons 55 or older or couples where either the husband or wife is 55 years of age or older.

#### **C. CONGREGATE OR INTERIM CARE HOUSING**

A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.

#### **D. DEPENDENT HOUSING FACILITIES**

Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

### **INGRESS AND EGRESS**

As used in this chapter, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

### **JUNK**

Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured. This definition shall not apply to farm implements, machinery and equipment utilized for permitted agricultural operations.

## **JUNKYARD**

An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

## **KENNEL**

Any lot or premises on which six or more animals (combination of all: dogs, cats, or other domestic animals six months or older) are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, or grooming, and may offer provisions for minor medical treatment, including animal shelters. This does not include livestock kept as part of an agricultural operation, or a stable, in the agricultural zoning district.

## **LAKE**

Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland Lake and Stream Act of 1972, P.A. 451 of 1994 (MCLA § 324.30101 et seq.) as amended.

## **LAND DIVISION**

The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Land Division Act, P.A. 288 of 1967 (MCLA § 560.101 et seq.) as amended.

## **LANDFILL**

Any land area used for disposal, tract of land, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined. All landfills shall be licensed in accordance with state and federal laws.

## **LANDSCAPING**

The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

### **A. BERM**

A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this chapter.

### **B. GREENWAY**

A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this chapter.

### **C. GROUND COVER**

Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.

### **D. HEDGE**

A row of closely planted shrubs or low-growing trees which form a continuous visual screen, boundary, or fence.

**E. SCREEN or SCREENING**

A wall, wood fence, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.

**F. SHRUB**

A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than 15 feet in height.

**G. SOD**

A piece from the surface of grassland containing the grass support soil, and the healthy roots extracted with the intention of replanting in another area for the purpose of establishing lawn areas. Sod is grown on mineral soil (commonly referred to as "topsoil") or peat, and must be a minimum of two years old. The grasses permitted for use in sod for landscaped lawns should be a blend that reflects the current standards in the industry and has been demonstrated to prosper under local conditions.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**H. TREE**

A self-supporting woody, deciduous or evergreen plant with a well-defined central stem which normally grows to a mature height of 15 feet or more in Berrien County, Michigan.

**(1) DECIDUOUS TREE**

A variety of tree that has foliage that is shed at the end of the growing season.

**(2) EVERGREEN TREE**

A variety of tree that has foliage that persists and remains green throughout the year.

**I. ORNAMENTAL TREE**

A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about 25 feet or less.

**J. SHADE TREE**

For the purposes of this chapter, a shade tree is a deciduous tree which has a mature crown spread of 15 feet or greater and has a trunk with at least five feet of clear stem at maturity.

**LIVESTOCK**

Includes, but not be limited to, horses/equine, cattle, sheep, goats, swine, llamas, fowl, alternative livestock kept or raised on a farm as regulated by the Michigan Department of Agriculture in accord with Generally Accepted Agricultural Management Practices (GAAMP).

**LOADING SPACE, OFF-STREET**

An off-street space of definite size and dimensions in accordance with the requirements of this chapter, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**LOCAL STREET**

See STREET, LOCAL OR MINOR STREET.

**LOT (or PARCEL)**

A lot is defined as a piece of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single lot of record.

- B. A portion of a lot of record.
- C. A combination of complete lots of record, or portion thereof.
- D. A piece of land described by metes and bounds.

**LOT AREA, GROSS**

The net lot area plus the area of any public right-of-way or private road easement, or the area of any lake or wetlands area within the legal description of the lot.

**LOT AREA, NET**

The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

**LOT COVERAGE**

The part or percent of the lot that is occupied by buildings or structures.

**LOT DEPTH**

The horizontal distance between the front lot line and rear lot line, measured along the median between the side lot lines.

**LOT LINES**

The lines bounding a lot as follows:

**A. FRONT LOT LINE**

The front lot line shall mean the line separating the lot from an abutting street right-of-way. In the case of a corner lot there may be more than one front lot line.

**B. REAR LOT LINE**

Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet in length, lying farthest from the front lot line and wholly within the lot. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.

**C. SIDE LOT LINE**

Any lot line other than the front or rear lot lines. On a corner lot the side lot line shall be opposite either frontage, but there shall be only one side lot line.

**LOT OF RECORD**

A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Berrien County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Berrien County Register of Deeds, legally established under the zoning regulations in effect at the time of its recording.

**LOT SPLIT AND CONSOLIDATION**

The dividing or unifying of lots by virtue of changes in the deeds in the office of the Berrien County Register of Deeds and/or the Township Treasurer. The division of lots shall take place in accordance with the Land Division Act, P.A. 288 of 1967 (MCLA § 560.101 et seq.) as amended, and Chapter 142, Land Division, of the Township of Buchanan Code.

**LOT WIDTH**

The straight line distance between the side lot lines, measured at the two points where the building line intersects the side lot lines.

**LOT, CONTIGUOUS**

Lots adjoining each other.

**LOT, CORNER**

A lot abutting two or more streets at their intersection. See also, within the definition of "yard," "yard, front."

**LOT, DOUBLE FRONTAGE**

A lot having a frontage on two streets and is not a corner lot.

**LOT, INTERIOR**

Any lot other than a corner lot with only one lot line fronting on a street.

**MAIN ACCESS DRIVE**

Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**MAJOR STREET OR THOROUGHFARE**

See, within the definition of "street," "street, major."

**MANUFACTURED HOUSING**

See "dwelling, manufactured."

**MARIHUANA**

This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCLA § 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCLA § 333.26423(e).

**MARQUEE**

A roof-like structure of a permanent nature, projecting from the wall of a building.

**MASSAGE ESTABLISHMENT**

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

**MASTER PLAN**

A document which is prepared under the guidance of the Township of Buchanan Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the Township.

**MEDICAL USE OF MARIHUANA**

The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCLA § 333.26423(e).

**MINING**

All operations involving excavation, removal, deposit or relocation of sand, gravel, topsoil, clay, marl, other materials and similar materials and fill materials that involve an amount of such earth solids in excess of 400 cubic yards per year as regulated in § 300-18.30 of this chapter.

**MINOR STREET**

See, within the definition of "street," "local or minor street."

**MOBILE HOME**

See "dwelling, mobile home."

**MOBILE HOME LOT**

An area within a mobile home park which is designated for the exclusive use of the occupants of a specific mobile home.

### **MOBILE HOME PARK (MANUFACTURED HOUSING DEVELOPMENT)**

A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as a temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Act 96 of the Public Acts of 1987 (MCLA § 125.2301 et seq.), as amended.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

### **MOTOR HOME**

A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile homes.

### **NATURAL FEATURES**

Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

### **NONCONFORMING BUILDING**

A building or portion thereof that was lawfully in existence at the effective date of this chapter, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this chapter pertaining to buildings in the zoning district in which it is located.

### **NONCONFORMING LOT**

A lot which was lawfully in existence at the effective date of this chapter, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this chapter pertaining to lots in the zoning district in which it is located.

### **NONCONFORMING USE**

A use which was lawfully in existence at the effective date of this chapter, or amendment thereto, and which does not now conform to the use regulations of this chapter for the zoning district in which it is now located.

### **NONCONFORMITY**

Any structure, lot, or use of any lot, land or structure, which does not conform at the time of adoption of this chapter or any amendment thereto, to the regulations for the district in which it is located.

### **NUISANCE**

Any offensive, annoying, or disturbing practice or object which prevents the free use of one's property or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, endanger life and health, or the generation of an excessive or concentrated movement of people or things such as:

- A. Noise;
- B. Dust;
- C. Smoke;
- D. Odor;
- E. Glare;
- F. Fumes;



- G. Flashes;
- H. Vibration;
- I. Shock waves;
- J. Heat;
- K. Electronic or atomic radiation;
- L. Objectionable effluent;
- M. Noise of congregation of people, particularly at night;
- N. Passenger traffic; or
- O. Invasion of non-abutting street frontage by traffic.

**NURSERY, DAY NURSERY, or NURSERY SCHOOL**

See "child-care center."

**NURSERY, PLANT MATERIAL**

A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see "open-air business" and "roadside stand."

**NURSING HOME, CONVALESCENT HOME, or REST HOME**

A home for the care of the aged, infirmed, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Act 368 of 1978 (MCLA § 333.21701 et seq.), as amended.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**OBNOXIOUS MATERIAL**

Anything causing a nuisance.

**OCCUPANCY, CHANGE OF**

A discontinuance of an existing use and the substitution of a use of a different kind or class, or the expansion of a use.

**OCCUPIED**

Used in any way at the time in question.

**OFF-STREET PARKING SPACE**

See "parking space" and "parking lot, off-street."

**OPEN SPACE**

Lands devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but are not limited to, playground fixtures, shelters, and tennis courts.

**OPEN SPACE, COMMON**

An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners' or property owners' association. Open space may include septic systems (excluding open lagoons) and utility easements.

**OPEN SPACE, PUBLIC**

Any primarily undeveloped land intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

**OPEN STORAGE**

Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

**OPEN-FRONT STORE**

A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

**OPEN-AIR BUSINESS**

Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open-air business shall include:

- A. Retail sales of garden supplies and equipment, including, but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- C. Various outdoor recreation uses, including, but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

**PARCEL**

See "lot (or parcel)."

**PARKING LOT, OFF-STREET**

An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three vehicles.

**PARKING SPACE**

An area of definite length and width as designated in this chapter for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

**PARTY WALL**

A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another and that is in joint use by each building.

**PERFORMANCE GUARANTEE**

Any security that may be accepted by the Township as a guarantee that improvements or work required as part of an application for development are satisfactorily completed.

**PERFORMANCE STANDARD**

A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

**PERSON**

An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

**PET**

A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

**PLANNED UNIT DEVELOPMENT**

A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this chapter using innovative and effective planning approaches.

**PLAT**

A map of a subdivision of land.

**POOL**

Any permanent, or portable structure or container located either above or below grade designed to hold water to a depth greater than 24 inches as defined by the adopted building code, intended for swimming or bathing.

**POOL DECK**

An open, horizontal platform attached or adjacent to the sides of an aboveground swimming pool. The deck shall be considered part of the pool structure.

**PORCH**

An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

**PORCH, ENCLOSED**

A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.

**PORCH, OPEN**

A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

**PRIMARY CAREGIVER**

A person as defined under MCLA § 333.26423 of the Michigan Medical Marihuana Act and who has been issued and possesses a valid registry identification card under the Act.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**PRIMARY CAREGIVER HOME OCCUPATION**

An activity in which a primary caregiver assists qualified patients with the medical use of marihuana as a home occupation.

**PRIMARY CAREGIVER, COHABITATING**

A primary caregiver that resides in the same residence with not more than one qualified patient to whom he or she is connected through the Department of Licensing and Regulatory Affairs registration process.

**PRINCIPAL USE**

See "use, principal."

**PRIVATE STREET OR ROAD**

See "street."

**PROJECTED AREA**

Referring to a building footprint, it is the maximum projection of the structure; e.g., roof overhang. It is the point from which the setback is measured.

**PROPERTY LINE**

The line separating property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also "lot lines."

**PUBLIC NOTICE**

A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this chapter or in applicable state law.

**PUBLIC UTILITY**

Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

**QUALIFYING PATIENT or PATIENT**

A person as defined under MCLA § 333.26423 of the Michigan Medical Marihuana Act and who has been issued and possesses a valid registry identification card under the Act.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**REAR LOT LINE**

See, within the definition of "lot lines," "lot line, rear."

**RECREATION ESTABLISHMENT, INDOOR**

A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice- and roller-skating rinks, curling centers, and firearms ranges.

**RECREATION ESTABLISHMENT, OUTDOOR**

A privately owned facility designed and equipped for the conduct of sports, amusements, or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee, such as tennis clubs, archery ranges, firearm ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

**RECREATIONAL LAND**

Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, hunting, picnicking, hiking, nature trails, boating, and fishing.

**RECREATIONAL VEHICLE**

A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pickup camper, or trailer which is designed for private recreational or travel use and which is further defined as:

**A. TRAVEL TRAILER**

A portable vehicle on a chassis which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

**B. PICKUP CAMPER**

A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

**C. MOTOR HOME (TRAILER COACH)**

A self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contains sanitary, water, and electrical facilities.

**D. FOLDING TENT TRAILER**

A folding structure, mounted on wheels and designed for travel and vacation use.

- E. Boats and boat trailers, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **OTHER RECREATIONAL EQUIPMENT**  
Snowmobiles, all-terrain vehicles, special-terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

## **REFUSE**

The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof. Synonym: rubbish.

## **RESTAURANT**

A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

### **A. RESTAURANT, CARRY-OUT**

A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

### **B. RESTAURANT, DRIVE-IN**

A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.

### **C. RESTAURANT, DRIVE-THROUGH**

A drive-through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.

### **D. RESTAURANT, FAST-FOOD**

A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.

### **E. RESTAURANT, STANDARD**

A standard restaurant is a restaurant whose method of operation involves either:

- (1) The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building; or
- (2) The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

### **F. BAR/LOUNGE**

A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If an establishment includes a bar or lounge and a separate dining facility, the establishment shall be considered a bar/lounge if more than 50% of the usable floor area of the entire establishment is used for the bar/lounge.

## **RIGHT-OF-WAY**

An area dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

**ROADSIDE STAND**

A temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make into a commercial district land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this chapter.

**ROOM**

For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one-, two-, or three-bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**RUBBISH**

See "refuse."

**SATELLITE ANTENNA**

An accessory structure which at its widest dimension is in excess of 36 inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

**SCHOOL, CHARTER (PUBLIC SCHOOL ACADEMY)**

A public school and a school district, subject to the leadership and general supervision of the state board over all public education. A charter school or public school academy is authorized by the executive action of authorizing board which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university.

**SCHOOL, NONPUBLIC**

A nonpublic school is any school other than a public school giving instruction to people and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC**

A public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREEN, OBSCURING**

A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

**SEASON, AGRICULTURAL**

The growing season, which by definition shall end a maximum four weeks after the last frost in any calendar year.

**SETBACK**

The distance between a front, side or rear lot line and the leading projected area (as defined by this chapter) of a structure on the lot. The minimum required setback is the minimum distance between a front, side or rear lot line and the nearest projected area of a structure in order to conform to the required yard setback provisions of this chapter. (See "yard.") When considering setback, for purposes of this chapter, the yard on the street side of a house is considered the front yard. See also "lot, corner," and within the definition of "yard," "yard, front," etc.

**SETBACK, PARKING LOT**

The minimum horizontal distance between the street right-of-way or property line and the near edge of the parking lot, excluding necessary and/or approved driveways, frontage roads, and

landscaping areas.

### **SIDE LOT LINE**

See, within the definition of "lot lines," "side lot line."

### **SIDE ROAD**

The roadway at a corner lot which carries or is typically designated for lower traffic volumes.

### **SIDEWALK**

Pedestrian or nonmotorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

### **SIGN**

Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images; including the following sign types:

#### **A. SIGN, ANIMATED OR MOVING**

Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation, including electronic message boards.

#### **B. SIGN, AWNING OR CANOPY**

A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by ordinance.<sup>[1]</sup>

#### **C. SIGN, DIRECTIONAL**

Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as One Way, Entrance, and Exit.

#### **D. SIGN, GROUND**

Any sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground and is independent of any other structure and which is up to six feet in height.

#### **E. SIGN, IDENTIFICATION**

A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

#### **F. SIGN, POLE**

A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

#### **G. SIGN, POLITICAL**

See "sign, yard."

#### **H. SIGN, PORTABLE**

A sign that is not permanent, affixed to a building, structure, or the ground.

#### **I. SIGN, PROJECTING**

A sign that is wholly or partly dependent upon a building for support and that projects more than 12 inches from such building.

#### **J. SIGN, REAL ESTATE**

See "sign, yard."

#### **K. SIGN, ROOF**

A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

**L. SIGN, SUSPENDED**

A sign hanging down from a marquee, awning, or porch that would exist without the sign.

**M. SIGN, TEMPORARY**

A sign intended for a limited period of display, including all portable signs, banners, pennants, and/or balloon signs.

**N. SIGN, 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 and that does not project more than 12 inches from such building or structure, and the exposed face of which shall be on a plane parallel to the building wall to which it is attached.

**O. SIGN, WINDOW**

A sign permanently or temporarily painted, placed or affixed on, or to, a glass window or other transparent surface so as to be visible through the surface to which it is attached, from outside the premises.

**P. SIGN, YARD**

A sign of relatively impermanent construction manually placed on a yard or lawn.  
[Amended 12-19-2019 by Ord. No. 118-2019]

**SIGN AREA**

The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

**SITE**

The property subject to a development plan or other review process pursuant to this chapter.

**SITE PLAN**

A plan showing all relevant features of a proposed development, as required in Article **XXIII**, so that it may be evaluated to determine whether it meets the provisions of this chapter.

**SMALL SCALE LIVESTOCK OPERATION**

The keeping of domesticated animals and fowl, other than dogs, cats, for recreation, education, breeding or other purposes as an accessory use to another permitted use in any district, other than the Agricultural District.

**SPECIAL EVENT**

An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a nonprofit the Township of Buchanan community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located.

**SPECIAL USE**

A use that is subject to approval by the Township Board of Trustees under the procedures and requirements for a special use permit contained in Article **XXIV** of this chapter. A special use permit may be granted only when there is a specific provision in this chapter. A special use is not considered to be a nonconforming use.

**SPECIFIED ANATOMICAL AREAS**



Specified anatomical areas shall include:

- A. Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

### **SPECIFIED SEXUAL ACTIVITIES**

Any of the following:

- A. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections **A** through **C** of this definition.

### **STABLE, PRIVATE**

A private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

### **STABLE, PUBLIC**

A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

### **STATE LICENSED RESIDENTIAL FACILITY**

Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 116 of 1973 (MCLA §§ 722.111 et seq.) or Public Act 218 of 1979 (MCLA §§ 400.701 et seq.). These acts provide for the following types of residential structures:

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

#### **A. ADULT FOSTER CARE FACILITY**

A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1979 (MCLA §§ 400.701 through 400.735), as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Licensing and Regulatory Affairs. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. The following four types of adult foster care homes are provided for by these rules:

##### **(1) ADULT FOSTER CARE FAMILY HOME**

A private residence with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

##### **(2) ADULT FOSTER CARE SMALL GROUP HOME**

An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven or more residents will live in the home.

##### **(3) ADULT FOSTER CARE LARGE GROUP HOME**

An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

**(4) ADULT FOSTER CARE CONGREGATE FACILITY**

An adult foster care facility with the approved capacity to receive more than 20 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

**B. FOSTER FAMILY HOME**

A private residence that houses four or fewer foster children, up to age 19, under constant child care and supervision. Under Public Act 116 of 1973 (MCLA § 722.111 et seq.), a foster family home does not require local zoning approval before being licensed by the Department of Licensing and Regulatory Affairs.

**C. FOSTER FAMILY GROUP HOME**

A private residence that houses five or six foster children, up to age 19, under constant care and supervision. Under Public Act 116 of 1973 (MCLA § 722.111 et seq.), a foster family group home requires local zoning approval before being licensed by the Department of Licensing and Regulatory Affairs.

**STORAGE**

The depositing of material, products for sale or use, vehicles, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items with a current, valid registration (license).

**STORY**

That portion of a building included between the upper surface of any floor and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area equal to at least 50% of the usable floor area of the floor immediately below it. A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

**STORY, HALF**

The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven feet, six inches.

**STREET**

A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and/or access to abutting property. Various types of streets are defined as follows:

**A. COLLECTOR STREET**

A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.

**B. CUL-DE-SAC**

A dead-end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street allowing for vehicle turnaround.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**C. LOCAL OR MINOR STREET**

A street whose sole function is to provide access to abutting properties.

**D. MAJOR STREET**

A street that carries high volumes of traffic and serves as a main avenue through or around the Township. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this chapter, major streets shall include those streets designated as "county primary," "county local" or "major" streets.

**E. PRIVATE STREET OR ROAD**

A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Township, county, state or federal government.

**F. PUBLIC STREET OR ROAD**

A street or road, the right-of-way and improvements of which have been accepted for maintenance by the Township, county, state, or federal government.

**STREET LINE**

A dividing line between the street and a lot, also known as the right-of-way line. See "right-of-way."

**STRUCTURAL ALTERATION**

Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number or exits, or any substantial change in the roof.

**STRUCTURE**

Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having permanent location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, signs and septic systems.

**STRUCTURE, ACCESSORY**

See "accessory use, building, or structure."

**STRUCTURE, OUTDOOR ADVERTISING**

See "sign."

**SUBDIVISION PLAT**

The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, MCLA § 560.101 et seq., as amended, and Chapter **142**, Land Division.

**SWIMMING POOL**

See "pool."

**TEMPORARY USE OR BUILDING**

See "building, temporary" or "use, temporary."

**THEATER**

An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

**TOWNHOUSE**

See "dwelling unit, single-family attached or townhouse."

**TOXIC OR HAZARDOUS WASTE**

Waste or a combination of waste and other discarded material, including solid, liquid, semisolid, or contained gaseous material which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. An increase in mortality; or
- B. An increase in serious irreversible illness; or
- C. Serious incapacitating, but reversible, illness; or

D. Substantial present or potential hazard to human health or the environment.

#### **TRAILER**

See "recreational vehicle" and "dwelling, mobile home."

#### **TRANSITION**

A zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

#### **TRUCK STORAGE**

An area used for the temporary storage of private trucks or trucks for hire.

#### **USE**

The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

#### **USE, ACCESSORY**

See "accessory use, building, or structure."

#### **USE, PERMITTED**

A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.

#### **USE, PRINCIPAL**

The main use of land and buildings and the main purpose for which land and buildings exist.

#### **USE, SPECIAL**

See "special use."

#### **USE, TEMPORARY**

A use permitted to exist during a specified period of time conditions and procedures as provided in this chapter.

#### **VARIANCE**

A modification of the literal provisions of this chapter in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

#### **VEHICLE, COMMERCIAL**

Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of 6,500 pounds. Any commercially licensed vehicle which does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

##### **A. SEMI-TRAILER**

A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. "Semi-trailer" shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures, to include any units which exceed 12 feet in height.

##### **B. TRUCK TRACTOR**

A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers, and similar units, and which is not customarily operated without an attached trailer.

##### **C. OTHER COMMERCIAL VEHICLES**

Any truck or motor vehicle with a cab and chassis with a stake, rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine feet. Commercial vehicles do not include motor homes or recreational vehicles, but do include construction equipment such as backhoes, power shovels, bulldozers, earth-moving equipment, and similar vehicles, excepting farm vehicles.

**VETERINARY HOSPITAL**

See "clinic, veterinary."

**WALL, OBSCURING**

A structure of definite height and location to serve as an opaque screen in carrying out the requirements of this chapter.

**WALL, PARAPET**

An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

**WALL, RETAINING**

A permanent constructed barrier intended to retain earth at an angle steeper than its natural angle of repose.

**WAREHOUSE**

A building used for short- and/or long-term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing.

**WAREHOUSE, MINIATURE OR SELF-STORAGE**

A building or group of buildings in a controlled access and/or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

**WASTE RECEPTACLE STATION**

Any exterior space which is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

**WELLNESS CENTERS**

A facility providing physical, emotional, mental and/or spiritual evaluation, consultation, therapy and/or services such as, but not limited to, beauty treatment; weight loss support; exercise and fitness services; substance abuse, medical, and psychological counseling; and nutrition and health evaluation and support. Such services and consultation may be offered by appointment, for walk-in patrons or for overnight guests.

**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.

**WETLAND, REGULATED**

Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451 of 1994, MCLA § 324.101 et seq., as amended, and generally defined as 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 and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river, or a stream;
- B. Not contiguous to an inland lake, pond, river, or stream, and more than five acres in size; or

- C. Not contiguous to an inland lake, pond, river, or stream and five acres or less in size if the Michigan Department of Natural Resources determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the Department has so notified the property owner.

### WHOLESALE SALES

On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

### WINERY, BREWERY or DISTILLERY

An agricultural facility in which grapes, fruits, or grains are grown or purchased, fermented or brewed, and processed into wine, mead, liquor, or beer, and packaged for distribution, including on-site tasting and consumption, as licensed by the State of Michigan.

### YARD

An open area on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this chapter.

#### A. YARD, FRONT

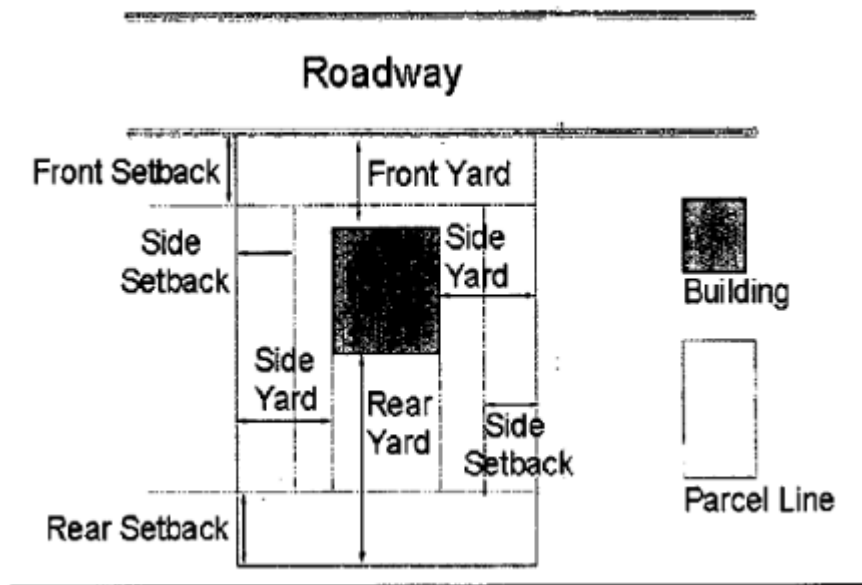
A yard extending across the front of a lot between the side yard lines; and being the minimum horizontal distance between the right-of-way line of the street and the main building or any projections other than the projection of the usual steps, unenclosed balconies, or open porch. (See definition for "setback.") Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage. Where lots have double frontage, the required front yard shall be provided on both streets.

#### B. YARD, REAR

A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.

#### C. YARD, SIDE

A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.



### ZONING ADMINISTRATOR

The official appointed by the Township Supervisor with the consent of the Township Board, and assisting the Township Supervisor, Township Board, Planning Commission and Zoning Board of

Appeals in administering the regulations of this chapter.

### **ZONING COMPLIANCE PERMIT**

The written authority issued by the Zoning Administrator permitting the construction, removal, moving, alteration, or use of a building, structure, lot or parcel in conformity with this chapter.

### **ZONING ENFORCEMENT OFFICER**

The official appointed by the Township Supervisor with the approval of the Township Board to assist the Zoning Administrator in his/her duties with regard to enforcement of this chapter.

[1] *Editor's Note: The former definition of "sign, construction," which immediately followed this definition, was repealed 12-19-2019 by Ord. No. 118-2019.*

## **Article III. Zoning Districts and Map**

### **§ 300-3.01. Establishment of districts.**

The Township of Buchanan, Berrien County, Michigan, is hereby divided into zoning districts, as named and described in the following articles. The boundaries of these zoning districts are established as shown on the Township of Buchanan Zoning Map as established in § 300-3.03 of this chapter.

### **§ 300-3.02. Creation of zoning districts.**

For the purpose of this chapter, the Township of Buchanan, Berrien County, Michigan, shall be divided into the following zoning districts, which shall be known by the names and symbols here shown.

AG Agricultural District  
 R-1 Low Density (Rural) Residential District  
 R-2 Medium Density (Suburban) Residential District  
 R-3 Multiple-Family Residential District  
 R-4L Lakefront/R-4R Riverfront Residential District  
 R-5 Manufactured Housing Community District  
 RE Recreational District  
 RS Rural Salvage District  
 MU Municipal District  
 CS Commercial/Service District  
 IND Industrial District

### **§ 300-3.03. Zoning Map.**

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The boundaries of the Township of Buchanan zoning districts shall be depicted on a map adopted by the Township of Buchanan Board of Trustees. The map shall be entitled "The Zoning Map of the Township of Buchanan" and shall bear the date of the most recent amendment. It shall be the duty of the Township Supervisor and Township Clerk to authenticate such records by placing their official signatures thereon. Such map, with all accompanying explanatory matter, is hereby made a part of this chapter and shall be, as such, a part of this chapter as if the matters and information set forth thereon were all fully described herein.

### **§ 300-3.04. Application of this chapter.**

Except as otherwise provided in this chapter, erection of buildings and uses of land shall conform to the specific provisions for the zoning districts in which they are located. No land shall be developed, redeveloped, use commenced, expanded or continued within the Township except as specifically, or by necessary implication, as authorized by this chapter. Lawful nonconforming structures and uses existing at the time of passage of this chapter are specifically governed by Article **XXV**, and generally governed by this chapter.

### § 300-3.05. Interpretation of district boundaries.

- A. Unless otherwise shown, the boundaries of the districts are lot lines, the center lines of streets or alleys, or such lines extended, and the limits of the Township of Buchanan.
- B. Where a district boundary line, as shown on the Zoning Map, divides a lot which was in a single ownership of record at the time of enactment of this chapter, the use authorized thereon and the other district requirements applying to the most restricted portion of such lot, under this chapter, shall be considered as extending to the entire lot.
- C. Where due to the scale, lack of detail or illegibility of the Zoning Map of this chapter, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Zoning Board of Appeals, after recommendation by the Planning Commission.
- D. Where a district boundary line follows a shoreline, such boundary shall be construed to be the shoreline. In the event of a change in the shoreline, the boundary line shall be construed to move with the actual shoreline. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be structured to follow such center lines.
- E. Boundaries indicated as approximately following platted lot lines, property lines, section lines or other lines of a government survey as they exist as of the effective date of this chapter or as applicable amended thereto shall be construed as following such lines.
- F. In districts along corridors where the depth of the zoning is not dimensionally defined, lines parallel to street without indication of the depth from the street line shall be construed as having a depth of 300 feet from the front lot line.

### § 300-3.06. Permissive zoning.

Land uses are permitted specifically in the various zoning districts of this chapter. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted in a zoning district. (See § 300-1.05.) No land contained within any zoning district within the Township of Buchanan shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Article **XXV**, Nonconforming Uses and Structures.

### § 300-3.07. Uses permitted by right.

Permitted uses are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the general provisions, parking regulations, landscaping, district intent, permit, certificate and site plan requirements found elsewhere in this chapter, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions, unless otherwise indicated herein.

### § 300-3.08. Uses permitted by special use permit.



The uses identified as special uses covering each district are recognized as possessing characteristics of such unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. Article **XXIV**, regarding procedure and requirements for special use permits, shall apply to these uses.

### § 300-3.09. Zoning of vacated areas.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Whenever any street, alley or other public way within the Township shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it is attached consistent with Act 288 of 1967, the Land Division Act, MCLA § 560.227a, as amended.

### § 300-3.10. Areas not included within a district.

In every case where land has not been included within a district on the Zoning Map, such land shall be so designated in the AG Zoning District until officially acted upon and designated by the Township Board as provided for in this chapter.

## Article IV. AG Agricultural District

### § 300-4.01. Description and purpose.

This zoning district is intended to accommodate land currently under cultivation, wetlands, woodlands, and other lands in an undisturbed state. Farming, crop cultivation, dairy and livestock operations, and rural estate single-family dwellings are suitable uses in this district. Parcels within the AG District are restricted to a minimum of two acres in area.

### § 300-4.02. Uses permitted by right.

Land, buildings and structures in this Zoning District may be used for the following purposes only:

- A. Farms for both general and specialized agricultural use as defined herein, together with farm dwellings, buildings and other installations necessary to such farms, including temporary housing for migratory workers and its sanitary facilities, provided that such activities are in conformance with all requirements of the Berrien County Health Department, the State of Michigan Right to Farm Act, EGLE and/or any other federal, state and/or local regulating agency having jurisdiction.
- B. Greenhouses, nurseries, orchards, vineyards, and apiaries.
- C. Single-family dwellings.
- D. Publicly owned and operated parks, parkways, and recreational facilities.
- E. Adult foster care family homes of six or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- F. Accessory structures and uses customarily incidental to the above permitted uses.
- G. Family day-care home.
- H. Home occupations. (See § 300-18.14 for additional standards.)

- I. Public stables, where livestock are boarded and/or rented.

## § 300-4.03. Permitted uses by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits.

- A. Public, social, religious and educational institutions that provide for locations of public assembly, with direct access to a county roadway and a minimum of two acres of land area.
- B. Removal and processing of topsoil, sand, gravel or other materials. (See § 300-18.30 for additional standards.)
- C. Kennels and animal boarding establishments.
- D. Township, county, regional and state owned buildings and service facilities (not including outdoor storage yards) when in character with the surrounding residential and agricultural area.
- E. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- F. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations (not including service or storage yards) when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communication facilities.
- G. Cemeteries.
- H. Essential services.
- I. Bed-and-breakfast facilities.
- J. Private airports and/or landing fields.
- K. Group day-care home.
- L. Planned unit development (pursuant to Article **XIV**).
- M. Guesthouse.
- N. Spas and wellness centers, subject to § 300-18.37.
- O. Wineries, breweries or distilleries, subject to § 300-18.07.
- P. Event venue.  
[Added 12-3-2020 by Ord. No. 121-2020]

## § 300-4.04. Development standards.

No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, height and building coverage requirements:

- A. Height. No residential building or structure shall exceed 35 feet in height. Agricultural structures such as storage silos, barns, grain elevators and similar structures are exempt from the maximum height requirements of this chapter.
- B. Front yard. There shall be a front yard of not less than 50 feet.

- C. Side yard. For residential buildings and structures, there shall be total combined side yards of not less than 40 feet; provided, however, that no side yard shall be less than 10 feet.
- D. Rear yard. There shall be a rear yard of not less than 30 feet.
- E. Lot area. The minimum net lot area in this district, unless specified elsewhere, shall be two acres.
- F. Lot width. The minimum lot width in this district, unless specified elsewhere, shall be 200 feet. The lot width shall be measured at the front building line.
- G. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 960 square feet with a minimum of 864 square feet of usable floor area on the main floor.
- H. Site plan review. Site plan review and approval (not including home occupations) is required for uses subject to a special use permit in accordance with Articles **XXIII** and **XXIV** of this chapter.
- I. New buildings constructed to house livestock shall not be placed closer than 50 feet to the lot lines, in addition to regulations which apply to accessory structures and farm animals elsewhere in this chapter.
- J. Access management. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.

## Article V. R-1 Low Density (Rural) Residential District

### § 300-5.01. Description and purpose.

The intent of this district is to provide a transition between the Agricultural District and other more dense residential districts, while not permitting the full range of agricultural activities. It is intended to provide for residential development with a rural character, by preserving open space and low population density. Utilities may be encouraged for extension in this area or homes may utilize on-site well and sanitary septic systems as permitted by the Berrien County Health Department.

### § 300-5.02. Uses permitted by right.

Land, buildings and structures in this zoning district may be used for the following purposes only:

- A. Single-family detached dwellings.
- B. Home occupations.
- C. Adult foster care family homes of six or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- D. Accessory structures and uses customarily incidental to the above permitted uses.
- E. Family day-care home.

### § 300-5.03. Permitted uses by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to Special Use Permits.

- A. Township, county, regional and state owned buildings and service facilities (not including outdoor storage yards) when in character with the surrounding residential and agricultural area.
- B. Public, social, religious and educational institutions that provide for locations of public assembly, with direct access to a county roadway and a minimum of two acres of land area.
- C. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communication facilities.
- D. Essential services.
- E. Group day-care home.
- F. Guesthouse.
- G. Planned unit development (per Article **XIV**).
- H. Township, county regional and state owned buildings, including libraries, art galleries and museums.
- I. Spas and wellness centers, subject to § 300-18.37.

## § 300-5.04. Development standards.

No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, height and building coverage requirements:

- A. Height regulations. No residential building or accessory structure shall exceed 35 feet in height.
- B. Front yard. There shall be a front yard of not less than 40 feet.
- C. Side yard. For residential buildings and structures, there shall be total side yards of not less than 20 feet; provided, however, that no side yard shall be less than 10 feet.
- D. Rear yard. There shall be a rear yard of not less than 30 feet.
- E. Lot area. The minimum net lot area in this district shall be 40,000 square feet.
- F. Lot width. The minimum lot width in this district, unless specified elsewhere, shall be 100 feet. The lot width shall be measured at the front building line.
- G. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 960 square feet with a minimum of 864 square feet of usable floor area on the main floor.
- H. Site plan review. Site plan review and approval (not including home occupations) is required for uses subject to a special use permit in accordance with Articles **XXIII** and **XXIV** of this chapter.
- I. Public water and sewer. Residential developments shall be served with approved water and sewer services per Chapter **200**, Sewers, and Chapter **260**, Water, of the Township of Buchanan Code. (Refer to existing agreements.)
- J. Access management. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.

## Article VI. R-2 Medium Density (Suburban) Residential District

## § 300-6.01. Description and purpose.

This district is intended for medium density (two to four units per acre) residential uses. This district is intended for areas that provide transition between urban and rural areas, are served by public water and sewer systems and typically provide paved roads constructed to county standards for local streets, sidewalks, and other suburban amenities.

## § 300-6.02. Uses permitted by right.

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Single- and two-family dwellings.
- B. Accessory structures and uses customarily incidental to the above permitted uses.
- C. Adult foster care family home. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- D. A family day-care home.

## § 300-6.03. Uses permitted by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits.

- A. Home occupations. (See § 300-18.14 for additional standards.)
- B. Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by a governmental agency or a not-for-profit organization.
- C. Township, county, regional and state owned buildings, including libraries, art galleries, museums, offices and service facilities (not including outdoor storage yards), when in character with the surrounding residential area.
- D. Public, social, religious and educational institutions that provide for locations of public assembly, with direct access to a county roadway and a minimum of two acres of land area.
- E. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communications facilities.
- F. Essential services.
- G. Group day-care home.
- H. Planned unit development (per Article **XIV**).
- I. Spas and wellness centers, subject to § 300-18.37.

## § 300-6.04. Development standards.

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements:

- A. Height regulations. No building or structure shall exceed 35 feet in height.
- B. Front yard. There shall be a front yard of not less than 35 feet.
- C. Side yard. For single- and two-family dwellings, no side yard shall be less than 10 feet.
- D. Rear yard. There shall be a rear yard of not less than 25 feet.
- E. Lot area. The minimum net lot area in this district, unless specified elsewhere, shall be:
  - (1) Single-family dwellings with public water and sewer: 10,000 square feet.
  - (2) Single-family dwelling without public water and sewer: 15,000 square feet.
  - (3) A two-family dwelling shall require double the lot (land) area required for a single unit parcel.
- F. Lot width. The minimum lot width in this district, unless specified elsewhere, shall be:
  - (1) With public water and sewer: 65 feet.
  - (2) Without public water and sewer: 75 feet.
  - (3) Two-family lots: 75 feet.
- G. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 960 square feet with a minimum of 864 square feet of usable floor area on the main floor.
- H. Site plan review. Site plan review and approval (not including home occupations) is required for uses subject to a special use permit in accordance with Articles **XXIII** and **XXIV** of this chapter.
- I. Public water and sewer. Residential developments shall be served with approved water and sewer services per Chapter **200**, Sewers, and Chapter **260**, Water, of the Township of Buchanan Code. (Refer to existing agreements.)
- J. Access management. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.

## Article VII. R-3 Multiple-Family Residential District

### § 300-7.01. Description and purpose.

This district is intended for a mixture of housing types, including single- and two-family dwellings, multiple-family structures, senior housing facilities, apartments, and similar housing alternatives. Locations for this district shall generally be planned to provide transitions between urban and suburban areas and commercial or industrial and residential areas where public services (water, sewer, police, fire) are readily available. Planned unit development shall be the preferred method of design and development for lots in this district.

### § 300-7.02. Uses permitted by right.

- A. Single- and two-family dwellings.
- B. Multiple-family dwellings, including:
  - (1) Row houses.

- (2) Apartments.
- (3) Townhouses.
- C. Accessory structures and uses customarily incidental to the above permitted uses.
- D. A family day-care home.

### § 300-7.03. Uses permitted by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits:

- A. Planned unit development (pursuant to Article **XIV**).
- B. Public, social, religious and educational institutions that provide for locations of public assembly, with direct access to a county roadway, a minimum of two acres of land area, and connection to public water and sewer utilities.
- C. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communications facilities.
- D. Essential services.
- E. Group day-care home.

### § 300-7.04. Development standards.

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements:

- A. Height regulations. No building or structure shall exceed 35 feet in height or 2 1/2 stories in height.
- B. Front yard. There shall be a front yard of not less than 35 feet.
- C. Side yard. For single- and two-family dwellings no side yard shall be less than 10 feet.
- D. Rear yard. There shall be a rear yard of not less than 25 feet.
- E. Lot area. The minimum net lot area in this district, unless specified elsewhere, shall be:
  - (1) Single-family dwellings with public water and sewer: 10,000 square feet.
  - (2) Single-family dwelling without public water and sewer: 15,000 square feet.
  - (3) A two-family dwelling shall require double the lot (land) area required for a single-family parcel.
  - (4) Multiple-family units shall have a net density of four units per acre except as otherwise provided in this chapter.
  - (5) For all other structures, the Planning Commission shall consider the density and make recommendation based on findings of fact that all other requirements of this chapter will be met.
- F. Lot width. The minimum lot width, measured at the front building line, for one- and two-family dwellings in this district, unless specified elsewhere, shall be:

- (1) With public water and sewer: 75 feet.
  - (2) Without public water and sewer: 75 feet.
  - (3) Two-family lots: 75 feet.
  - (4) Multiple-family dwelling: 200 feet.
- G. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 720 square feet for apartment units. Single- and two-family dwellings shall require a minimum of 864 square feet of usable floor area on the main floor.
- H. Site plan review. Site plan review and approval is required for all uses requiring a special use permit and for all site plans which contain more than two dwelling units in a single structure.
- I. Public water and sewer. All multiple-family dwellings shall be required to utilize public utilities.
- J. Access management. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.

## Article VIII. R-4L Lakefront Residential District; R-4R Riverfront Residential District

### § 300-8.01. Description and purpose.

These regulations recognize that many lots were created and dwellings constructed before any local regulations were applied and that, as a result, there are lakefront lots that exist at a higher density than would be permitted if those lands were currently being developed. This district distinguishes between the lakes in the Township and the unique riverfront properties in using development standards unique to each setting. See § 300-8.04, concerning the R-4L Lake Residential District, and § 300-8.05, concerning the R-4R Riverfront Residential District.

### § 300-8.02. Uses permitted by right.

Buildings and structures permitted in this district may be used for the following purposes only:

- A. Single-family dwellings.
- B. Publicly owned and operated parks, playgrounds, and other recreational areas without buildings.
- C. Adult foster care family homes for six persons or less.
- D. Family day-care home.
- E. Accessory structures and uses customarily incidental to the above permitted uses.

### § 300-8.03. Uses permitted by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits.

- A. Public, social, religious and educational institutions that provide for locations of public assembly, with direct access to a county roadway, a minimum of two acres of land area.



- B. Home occupations.
- C. Essential services.
- D. Bed-and-breakfast facilities.
- E. Group day-care home.
- F. Planned unit development (pursuant to Article **XIV**).
- G. Guesthouse.  
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

## § 300-8.04. Development standards in R-4L Lakefront Residential District.

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area and lot coverage requirements:

- A. Height regulations. No building or structure shall exceed 35 feet in height or 2 1/2 stories in height.
- B. Front yard. The front yard shall be the yard between the road or right-of-way and the dwelling. There shall be a front yard of not less than 25 feet.
- C. Side yard. For residential buildings and structures side yards shall be not less than 10 feet. Provided however, that for lots legally in existence as of January 1, 1969, with a width of less than 75 feet in the R-4L District, side yards shall be the lesser of 10 feet or 15% of the lot width, but in no case shall such side yard be less than five feet.
- D. Rear yard. For residential buildings and structures, there shall be a minimum rear yard setback of not less than 50 feet. The rear yard shall be the yard between the ordinary high-water mark and the principal dwelling for the purpose of this chapter.
- E. Lot area. The minimum net lot area in this district, unless specified elsewhere, shall be no less than 8,625 square feet.
- F. Lot width. No lot or building site shall have a width at the front building line of less than 75 feet.
- G. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 864 square feet of usable floor area on the main floor.
- H. Private dock. One private dock may be permitted, provided it meets the requirements of § 300-18.36, Docks, boathouses, and mooring facilities, of this chapter.
- I. Public water and sewer shall be provided per Chapter **200**, Sewers, and Chapter **260**, Water, of the Township of Buchanan Code.
- J. Access management. All developments consisting of two or more single- or two-family dwellings shall utilize shared driveways, private roads or newly dedicated public roads to provide access to their developments in order to limit curb cuts and access to primary county roadways. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.
- K. Grade. No change shall be made in the grade of property within the R-4L District without the submission of a site plan in accordance with Article **XXIII** of this chapter.
- L. Site plan review. Site plan review and approval is required for all uses requiring a special use permit and for all site plans which contain more than two dwelling units in a single structure.

## § 300-8.05. Development standards in R-4R Riverfront Residential District.

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements:

- A. Height regulations. No building or structure shall exceed 35 feet in height or 2 1/2 stories in height.
- B. Front yard. The front yard shall be the yard between the road or right-of-way and the dwelling. There shall be a front yard of not less than 40 feet.
- C. Side yard. For residential buildings and structures side yards shall be not less than 10 feet.
- D. Rear yard. For residential buildings and structures, there shall be a minimum rear yard setback of not less than 50 feet. The rear yard shall be the yard between the ordinary high-water mark and the principal dwelling for the purpose of this chapter.
- E. Lot area. The minimum net lot area in this district, unless specified elsewhere, shall be no less than 20,000 square feet.
- F. Lot width. No lot or building site shall have a width at the front building line of less than 100 feet.
- G. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 864 square feet of usable floor area on the main floor.
- H. Private dock. One private dock may be permitted provided it is less than six feet in width and meets all of the requirements of § 300-18.36, Docks, boathouses, and mooring facilities, of this chapter.
- I. Public water and sewer shall be provided per water and sewer ordinance.
- J. Access management. All developments consisting of two or more single- or two-family dwellings shall utilize shared driveways, private roads or newly dedicated public roads to provide access to their developments in order to limit curb cuts and access to primary county roadways. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.
- K. Grade. No change shall be made in the grade of property within the R-4R District without the submission of a site plan in accordance with Article **XXIII** of this chapter.
- L. Floodplains. All habitable structures and garages shall be constructed outside the horizontal and vertical limits of the floodplain.
- M. Site plan review. Site plan review and approval is required for all uses requiring a special use permit and for all site plans which contain more than two dwelling units in a single structure.

## Article IX. R-5 Manufactured Housing Community District

### § 300-9.01. Description and purpose.

The Manufactured Housing Community District is intended to provide for the location and regulation of manufactured home parks in conformance with the Mobile Home Commission Act, being Act 96 of 1987, MCLA § 125.2301, as amended (the Act), and the administrative rules promulgated thereunder (the Rules, and referenced in this article as "R125"). Manufactured housing community development standards include the anchoring. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured home parks shall be located in conformance with the following:

- A. Manufactured home parks shall serve as a transition zone between residential and nonresidential districts. Manufactured home parks should not be located where they would interrupt the continuity of permanent single-family neighborhoods.
- B. Manufactured home parks may be located on sites adjacent to existing manufactured home parks; however, sites which meet all other location criteria of this section may be appropriate.
- C. The community's internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement. An additional access shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall satisfy this requirement.
- D. All lots shall be provided with public water and sanitary sewer service, or water and sanitary services that shall be approved by the Michigan Environment, Great Lakes, and Energy Department (EGLE), pursuant to EGLE Rules R 325.3321 and R 325.3331 through R 325.3335. Water line connections shall meet the specifications contained in EGLE Rule R 125.1603(a) and EGLE Rule R 325.3373. Water system meters shall comply with EGLE Rules R 325.3321 and R 125.1940a. Storm drainage systems shall be designed and installed according to the standards of the EGLE and the Berrien County Drain Commissioner.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- E. Manufactured home parks shall not be located in a designated floodway as determined by the EGLE according to Mich Admin Code R 125.1602(4) of the Manufactured Housing Commission; shall be located outside of a designated floodplain.
- F. The regulations established by state law (Michigan Public Act 96 of 1987, MCLA § 125.2301, as amended) and the Manufactured Housing Commission Rules govern all manufactured home parks.

## § 300-9.02. Uses permitted by right.

In all areas zoned Manufactured Housing Community District, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

- A. Manufactured home parks and subdivisions.
- B. Adult-care and child-care facilities that provide care for up to six individuals.
- C. Essential services, provided there is no building or outdoor storage yard.

## § 300-9.03. Permitted accessory uses.

Accessory buildings, uses and activities customarily incidental to any of the above-named permitted uses, subject to the provisions of this chapter.

## § 300-9.04. Development standards and requirements.

- A. Preliminary plan review. Pursuant to Section 11 of Michigan Public Act 96 of 1987, MCLA § 125.2311, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.
  - (1) In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall follow the procedures and requirements of this chapter, where applicable,

except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules.

- (2) Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within 60 days after the Township officially receives the plan.
- B. Minimum requirements. Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law, including, by the way of example, Act 96 of 1987, MCLA § 125.2301 et seq., as amended, and the Manufactured Housing Commission Rules as amended.
- C. General authority. Manufactured home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, MCLA § 125.2301 et seq., and subsequently adopted rules and regulations governing manufactured home parks. Application for permit to construct a manufactured home park shall be submitted to the Michigan Department of Licensing and Regulatory Affairs, Construction Codes Bureau, the agency charged with licensing of manufactured home parks. Preparation of the application, support data, and local agency review of the above-mentioned materials shall conform to the requirements of Act 96.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- D. Codes. All structures and utilities to be constructed, altered, or repaired in a manufactured home park shall comply with all applicable codes of the State of Michigan, the United States Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured home built prior to June 15, 1976, shall have been constructed to the State of Michigan Standards in effect at that time. All structures and improvements to be constructed or made under the Building Code shall have a building permit issued therefore by the Township Building Inspector.
- E. Site size. The manufactured home park shall be developed with sites having a minimum size of 5,500 square feet per manufactured home unit. This 5,500 square foot minimum for any one site may be reduced 20% provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R 125.1946, Rule 946; R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.
- F. Dimensional requirements. Manufactured home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance.
- (1) Twenty feet from any part of an adjacent manufactured home, if sited perpendicular to an internal road; or 15 feet from an adjacent manufactured home, if sited parallel to an internal road. Said standards shall apply to and include an attached or detached structure that may be used for living purposes for the entire year.
  - (2) Ten feet from an attached or detached structure of an adjacent home that may not be used for living purposes for the entire year.
  - (3) Seven feet from any on-site parking space of an adjacent manufactured home site.
  - (4) Fifty feet from permanent community-owned structures, such as either of the following:
    - (a) Club houses.
    - (b) Maintenance and storage facilities.
  - (5) One hundred feet from any baseball, softball, or similar recreational field.

- (6) Any part of a home or an accessory structure, such as steps, porches, supported or unsupported awnings, decks, carports or garages, or similar structures, shall be set back the following minimum distances:
    - (a) Seven feet from the edge of an internal road.
    - (b) Seven feet from a parking space on an adjoining home site or parking bay off a home site.
    - (c) Seven feet from a common sidewalk.
    - (d) Twenty-five feet from a natural or man-made lake or waterway.
  - (7) Steps and their attachments shall not encroach more than 3 1/2 feet into parking areas.
  - (8) Homes, permanent buildings and other structures shall not be located closer than 20 feet from the property boundary line of the community.
  - (9) If homes, permanent buildings and other structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line. If the boundary line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line. This section does not apply to internal roads dedicated for public use.
- G. Building height. Buildings in the Manufactured Housing Community District shall not exceed 2 1/2 stories or 35 feet, except that storage sheds shall not exceed 15 feet in height.
- H. Roads. Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:
- (1) Two-way streets shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted on one side only, and 41 feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - (2) One-way streets shall not be permitted.
  - (3) The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule R 125.1712 of the Michigan Administrative Code.
  - (4) An internal road that has no exit at one end shall terminate with a minimum turning radius of 50 feet. Parking shall not be permitted within the turning area, which shall be posted within the turning area. A safe-site distance of 250 feet shall be provided at all intersections. Offsets at intersections or intersections of more than two internal roads are prohibited.
  - (5) The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
  - (6) All roads shall be clearly marked with appropriate identification and traffic control signs as provided by Mich Admin Code R 125.1703. The name of any streets or roads shall be approved by the Berrien County Road Department.
  - (7) All roads shall be constructed to minimum standards as provided in Mich Admin Code R 125.1922 through R 125.1924.
- I. Parking and storage.
- (1) All manufactured home sites shall be provided with two parking spaces per Manufactured Housing Commission Rules 925 and 926 (Mich Admin Code R 125.1925 and R 125.1926).

- (2) In addition, a minimum of one parking space for every three manufactured home sites shall be provided for visitor parking located convenient to the area served.
  - (3) Off-street parking in accordance with Article **XIX** of this chapter shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
  - (4) No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
  - (5) Storage areas.
    - (a) Personal property. A manufactured home site shall be kept free of fire hazards, including combustible materials under the home. One storage shed that complies with the Michigan Residential Code may be placed upon any individual manufactured home site for the storage of personal property, if permitted by management. Storage sheds shall be constructed with durable weather and rust-resistant materials and shall be maintained to reasonably preserve their original appearance.
    - (b) Storage sheds that are attached to homes shall consist of materials similar to that of the home and shall have a fire-rated wall separation assembly in accordance with the Michigan Residential Code. A detached storage shed shall be at least 10 feet from all adjacent homes. All storage sheds shall be securely anchored, in accordance with the Michigan Residential Code.
    - (c) Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
    - (d) Recreational vehicle storage. If recreational vehicle storage is provided within the manufactured housing community, it should include, but not be limited to: class A, B, and C motor homes; fifth wheel travel trailers; travel trailers; folding tent campers; trailered boats; trailered all-terrain vehicles; trailered personal watercraft; historic vehicles; and seasonal equipment. The storage area shall be adequately locked, fenced, and permanently screened, using the same standards of screening provided at the property's perimeter, and surfaced in accordance with Mich Admin Code R 125.1922. The storage area shall be limited to use by the residents and management of the manufactured housing community.
- J. Sidewalks. Sidewalks having a minimum width of three feet shall be provided on at least one side of collector roads in the manufactured housing park. Such sidewalks shall conform to the requirements of Act 8 of the Public Acts of 1973 (MCLA § 125.1361).
- K. Accessory buildings and facilities.
- (1) Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted preliminary plan for approval.
  - (2) Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
  - (3) Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
- L. Open space. A manufactured housing community that contains 50 or more sites constructed under a permit to construct shall have not less than 2% of the community's gross acreage dedicated to designated open space, but in no case less than 25,000 square feet. Required

property boundary setbacks may not be used in the calculation of open space area. Optional improvements shall comply with state codes and applicable laws and ordinances pertinent to construction, including obtaining appropriate state or local permits for the facility or structure being built. If provided, recreational or athletic areas shall comply with the safety and setback standards of Mich Admin Code R 125.1705 and 125.1941(1), respectively.

- M. Landscaping and screening. Consistent with requirements for other residential subdivisions and site condominiums, manufactured housing communities shall be landscaped as follows:
- (1) If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
  - (2) If the community abuts a nonresidential development, it need not provide screening.
  - (3) In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way. The landscaping shall consist of evergreen trees or shrubs at least three feet in height at time of planting which are spaced so that they provide a continuous screen at maturity. Alternative screening devices may be utilized if they buffer the manufactured housing community as effectively as the required landscaping described above.
  - (4) Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.
- N. Canopies. Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sunroom or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this section but shall not require a building permit unless fully enclosed or exceeding 10 feet by 10 feet in size.
- O. Waste receptacles. Each manufactured home site shall use approved garbage/rubbish containers that meet the requirements of Part 5 of the Michigan Environment, Great Lakes, and Energy Department Health Standards, EGLE Rules R 325.3351 through R 325.3354. The containers shall be kept in sanitary condition at all times. It shall be the responsibility of the community operator to ensure that all garbage/rubbish containers do not overflow and that all areas within the community are free of garbage/rubbish.
- P. Signs. Signs shall be regulated per Article **XXI**, Signage, of this chapter.
- Q. Storm drainage. All drainage outlet connections shall be subject to review and approval by the Berrien County Drain Commissioner. Drainage systems shall be reviewed and approved by the EGLE, in accordance with EGLE Rules R 325.3341 to R 325.3349, pursuant to the Act.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- R. Underground wiring and utilities.
- (1) Electricity. Electrical systems shall be installed, maintained, operated and serviced according to the standards established in Rules R 125.1603(d), R 125.1603(e), R 125.1603(f); R 125.1708; R 125.1710(2); R 125.1932; R 125.1933; and EGLE Rule R 325.3373(2)(c).
  - (2) Fuel and gas heating service. The installation, maintenance, operation and service of manufactured housing community fuel and gas heating systems and connections shall comply with the standards contained and referenced in Rules R 125.1603(b), R 125.1710(1), R 125.1934 through R 125.1938, R 125.1940(3) and EGLE Rule R 325.3373(2)(d).
  - (3) Telephone communication lines. All telephone systems shall be installed in accordance with standards approved by the Michigan Public Service Commission or utility provider, pursuant to Rule R 125.1940(2), as applicable.

- (4) Television. Television service installation shall comply with requirements of Rule R 125.1940(1).
- (5) Water and sewage service. All lots shall be provided with public water and sanitary sewer service, or water and sanitary services that shall be approved by the EGLE, pursuant to EGLE Rules R 325.3321 and R 325.3331 through R 325.3335. Water line connections shall meet the specifications contained in Rule R 125.1603(a) and EGLE Rule R 325.3373. Water system meters shall comply with EGLE Rule R 325.3321 and Rule R 125.1940a.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- S. School bus stops. School bus stops shall be located in an area that is acceptable to the local school district and the manufactured housing park developer.
- T. Mailbox clusters. The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least 200 feet from any intersection of a manufactured housing park road with a public road.
- U. Manufactured housing unit sales. New or pre-owned manufactured homes, which are to remain on site in the manufactured housing community, may be sold by the resident, owner or a licensed retailer or broker, provided that the manufactured housing community management permits the sale, as established in Section 28a of the Act (MCLA § 125.2328a), and Rules R 125.2001a, R 125.2005, R 125.2006 and R 125.2009(e).
- V. Operational requirements.
- (1) Permits. A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Township Building Inspector shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of Licensing and Regulatory Affairs. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on site, such as a management office or clubhouse, shall require a building permit prior to construction and a certificate of occupancy prior to use.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (2) Violations. Township inspections of manufactured housing communities shall comply with Section 17(2) of the Mobile Home Commission Act, MCLA § 125.2317(2). The Township shall present any evidence of an alleged violation of this Act or standards promulgated under this Act to the Michigan Bureau of Construction Codes, which may refer the available evidence concerning violations of the Act to the Attorney General or the proper prosecuting attorney who, with or without a reference, may take appropriate action, as further provided in Sections 17 and 36 of the Act, MCLA §§ 125.1317 and 125.2336.

## Article X. RE Recreational District

### § 300-10.01. Description and purpose.

This district is intended for recreational activities.

### § 300-10.02. Uses permitted by right.

- A. Single-family dwellings.
- B. Publicly owned and operated parks, playgrounds, and other recreational areas.



## § 300-10.03. Uses permitted by special use permit.

The following uses may be permitted by the Township Board of Trustees after review by the Planning Commission in accordance with the provisions of Article **XXIV**, which may require special conditions which fulfill the purposes of this chapter:

A. Recreational facilities, including:

- (1) Outdoor ice-skating rinks.
- (2) Skate parks.
- (3) Ball fields (including baseball and others).
- (4) Outdoor tennis courts.
- (5) Soccer fields.
- (6) Hunting and fishing sites.
- (7) Recreational travel trailer parks and tent camping facilities.
- (8) Golf courses.
- (9) Driving ranges.
- (10) Ski and snowmobile runs.
- (11) Go-cart or motorcycle tracks.
- (12) Paint ball activities.
- (13) Shooting and firearm ranges.
- (14) Event venue.

[Added 12-3-2020 by Ord. No. 121-2020]

## § 300-10.04. Parking areas.

Adequate off-street parking areas with a dust-free surface shall be provided. Parking areas shall have a minimum setback of 50 feet from the edge of any highway right-of-way.

## § 300-10.05. Development standards.

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements:

- A. Lot area. The minimum net lot area in the RE Recreational District is five acres, on which more than one compatible use may be placed.
- B. Lot width. The minimum lot width in the RE Recreational District is 300 feet.
- C. Site plan review. Site plan review and approval (not including home occupations) is required for uses subject to a special use permit in accordance with Articles **XXIII** and **XXIV** of this chapter and for expansion of any existing special use.
- D. Access management. All new structures, parcels of land, land divisions, subdivision lots, or condominium units shall meet the requirements of § 300-18.34, Access management, of this chapter.

- E. Minimum floor area. Each dwelling unit, unless specified elsewhere, shall have a total minimum of 960 square feet with a minimum of 864 square feet of usable floor area on the main floor.

## Article XI. RS Rural Salvage District

### § 300-11.01. Description and purpose.

The Rural Salvage District is intended to recognize the unique site requirements of certain materials processing and recycling operations which employ outdoor operations and storage activities. A rural environment is most appropriate for such activities as it can offer substantial isolation distances from residences or other sensitive uses that could be impacted by the salvage activity. Such an area must also have immediate access to transportation networks to enable the efficient movement of inbound and outbound products with minimal disruption to other sensitive uses. This district is so structured as to permit the safe and efficient recovery of recycled materials and compounds for sustainable reuse and to provide for open and enclosed operations associated with such activity, including the inbound and outbound shipment of products and scrap. This district is sited in those portions of the Township that have proven to be appropriate to meet the specific requirements of materials recovery where the impacts of traffic, noise, odors, dust and glare are shown to have negligible effect on the residential community and the natural environment.

### § 300-11.02. Uses permitted by right.

In the Rural Salvage District, buildings and premises may be used, and buildings may be erected or structurally altered for the following uses only:

- A. Contractor's storage yard.
- B. Material handling and equipment.
- C. Warehousing, storage movers.

### § 300-11.03. Uses permitted by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits:

- A. Grinding, milling, and production.
- B. Junk and salvage operations, including crushing, compacting and breaking of salvage materials (See § 300-18.27 for standards.)

### § 300-11.04. Development standards.

- A. Height. The maximum height of buildings and other structures erected or enlarged in this district shall be 40 feet.
- B. Front yards. There shall be a front yard on each lot which shall be not less than 40 feet in depth.
- C. Side yards. On each interior lot, there shall be two side yards, each side yard having a width of not less than 25 feet, except as provided in Subsection F hereof. Corner lots shall be as defined elsewhere in this chapter.

- D. Rear yards. There shall be a rear yard on each lot the depth of which shall be not less than 50 feet, except as provided in Subsection **F** hereof.
- E. Minimum lot area. The site shall be a minimum of two acres in size.
- F. Lots abutting residential districts. Unless authorized as a special use, no building or structure shall be erected, nor shall any outdoor processing equipment or operation, be located, closer than 100 feet to any residential district nor shall any parking area be closer than 40 feet to any residential district, which forty-foot area between such parking lot and such residential district shall be maintained as green area entirely covered by grass, shrubs, and/or trees. See off-street parking regulations elsewhere in this chapter.
- G. Site plan review. Site plan review and approval is required for all uses, in accordance with Article **XXIII** pertaining to site plan review.
- H. Landscaping. Landscaping is required for all new uses, in accordance with Article **XX**, Landscaping Standards, of this chapter which also sets forth fencing and buffering requirements.
- I. Signage. Signage shall comply with the standards established for the Industrial District as provided in Article **XXI**, Signage, in this chapter.
- J. Parking. Parking is required for all new uses, subject to and in accordance with the Article **XIX**, Parking and Loading Standards, of this chapter.
- K. Fences. Fencing shall be required as part of site plan review.

## Article XIA. MU Municipal District

### § 300-11A.01. Description and purpose.

Included in these districts all lands and structures owned, leased or used by the Township, either in a proprietary capacity or in trust for the use of the public, and specifically including, but not limited to water, sewage and trash facilities as defined in the Township of Buchanan Code regulating the same being, and any amendments thereto, which lands shall be located exclusively in this district.

### § 300-11A.02. Uses permitted by right.

In all areas zoned Municipal, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses.

- A. Municipal buildings and accessory uses.
- B. Parks and their accompanying activity areas.
- C. Recreational use as permitted by the Township Board of Trustees.
- D. Essential services.

## Article XII. CS Commercial/Service District

### § 300-12.01. Description and purpose.

The intent of the CS Commercial District is to provide for a variety of commercial uses that cater to the convenience and shopping needs of the residents of a limited area within the Township's limits and

therefore, often located so as to serve passing traffic. Uses designated as "permitted" uses are considered to be smaller in scale and less obtrusive in nature. Commercial facilities should be compatible in design with adjacent commercial development and not pose a nuisance to nearby residential areas.

## § 300-12.02. Uses permitted by right.

Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, alcoholic beverages, baked goods or other foods, ice cream, pharmaceuticals, dry goods, notions, hardware, books, stationery and school supplies, music and video sales and rental, flowers, hobby equipment, periodicals, shoes, sporting goods, small household articles, and tobacco products.
- B. Establishments which perform services within a completely enclosed building for persons residing in nearby residential areas, such as: beauty and barber shops; watch, radio, television, computer, clothing and shoe repair; locksmiths; photo processing outlets.
- C. Office buildings and professional office uses, including medical and dental clinics or offices.
- D. Schools for occupations, professional, or technical training, such as dance schools, music and voice schools, art studios, secretarial training, and similar schools.
- E. Financial institutions, including banks, credit unions, and savings and loan associations. Drive-through facilities are permitted.
- F. Laundry and dry cleaning customer outlets, coin operated laundromats, self-serve dry cleaning establishments, and similar operations.
- G. Standard and carry-out restaurants, bars and lounges.
- H. Uses and structures accessory to the above.
- I. Automobile fueling stations. (See § 300-18.26 for standards.)

## § 300-12.03. Uses permitted by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits:

- A. Outdoor retail sales of plant material not grown on the site, lawn furniture, playground equipment, and home garden supplies.
- B. Township, regional, state and federal buildings and uses not requiring outside storage of materials or vehicles.
- C. Essential services.
- D. Climate-controlled storage facility.  
[Added 12-19-2019 by Ord. No. 118-2019]

## § 300-12.04. Development standards.

- A. Lot area. Any lot, building, or use in this zone shall have sufficient net lot area to meet all requirements of this chapter, including, but not limited to, building setbacks, off-street parking and

- loading, landscaping, screening, and access management.
- B. Height. No commercial building or structure within this district shall exceed 40 feet or three stories in height; provided, however, that buildings of greater height may be approved as part of a special use permit pursuant to the provisions of Article **XXIV** of this chapter.
- C. Front yards. On a street frontage between two street intersections, each lot fronting on such street shall have a setback line between the lot line and the front building line as follows:
- (1) Where all lots are unimproved, the front building line shall not be less than 25 feet from the road/street right-of-way line.
  - (2) Where one or more lots are improved, the front yard depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. In no case shall it be less than 25 feet.
- D. Side yards:
- (1) On a lot abutting any residential zoning district, there shall be a side yard abutting such district having a width of not less than 30 feet.
  - (2) All interior lots shall have two side yards, each having a width of not less than 15 feet.
- E. Rear yards. There shall be a rear yard on every lot, which rear yard shall have a minimum depth of not less than 10% of the depth of the lot for a one story building, which depth shall be increased to 15% of the depth of the lot for a two story building; provided however, that such rear yard need not exceed 30 feet in depth. Accessory buildings not more than 15 feet high may be located in a rear yard, provided the accessory buildings occupy not more than 25% of the rear yard, and are located no nearer to the side or rear lot line than 15 feet.
- F. Accessory buildings shall not be used for residential purposes.
- G. Lot coverage. Not more than 60% of any lot may be occupied by buildings.
- H. Off-street parking and loading. Adequate off-street parking and loading space shall be provided in accordance with the article in this chapter regulating parking (Article **XIX**).
- I. Site plan review. Site plan review and approval is required for all uses, in accordance with the provisions of this chapter.
- J. Landscaping and screening. Landscaping is required for all new uses, in accordance with the provisions of this chapter. Side yards and rear yards adjoining any lot in a residential zoning district shall be screened by:
- (1) A compact hedge of evergreen trees which shall have a minimum of six feet in height and 10 feet in width after one growing season; or
  - (2) A solid wall or tight board fence six feet in height.
- K. Signage. Signage is to be regulated and is subject to the requirements of Article **XXI** of this chapter.
- L. Access. Commercial uses shall have no more than one access drive along any public road right-of-way except in such case where parcels abut two public roads, one access drive may be permitted along each adjoining road frontage. For multiple tenant buildings and commercial developments, shared drives, connected parking lots and parallel access roads shall be utilized. All new structures, parcels of land, and land divisions, shall meet the requirements of § 300-18.34, Access management, of this chapter.
- M. General development standards. Buildings and uses in the CS Commercial/Service Zoning District shall be subject to all applicable standards and requirements set forth in this chapter.

## Article XIII. IND Industrial District

### § 300-13.01. Description and purpose.

- A. The Industrial District is designed to primarily accommodate industrial parks, wholesale activities, warehouses, and industrial operations whose external effects are restricted to the area of the district and in no manner detrimentally affect any of the surrounding district or adjacent uses. This district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared materials. The processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, while permitted as a special use under strict scrutiny, is encouraged only where public infrastructure and services are proven to be adequate, and where the impacts of traffic, noise, odors, dust and glare are shown to have negligible impacts on the residential community and the natural environment.
- B. Permitted uses should be compatible with surrounding residential or commercial uses. Accordingly, permitted manufacturing, distribution, warehousing, and light industrial uses permitted in this district should be fully contained within well-designed buildings on amply landscaped sites, with adequate off-street parking and loading areas, and with proper screening around outside storage areas.

### § 300-13.02. Uses permitted by right.

In the Industrial District, buildings and premises may be used, and buildings may be erected or structurally altered for the following uses only:

- A. Cleaners and laundries.
- B. Contractor's storage yard.
- C. Equipment repair.
- D. Fabrication assembly and packaging.
- E. Food processing.
- F. Grinding, milling, and production.
- G. Material handling and equipment.
- H. Motor vehicle services.
- I. Repair services.
- J. Warehousing, storage movers.
- K. Wholesaling.
- L. Farms and farming related operations for general and specialized agricultural uses as defined herein.

### § 300-13.03. Uses permitted by special use permit.

The following uses may be permitted upon approval by the Township Board of Trustees who may require special conditions after review by the Planning Commission in accordance with the provisions of this chapter relating to special use permits:

- A. Junk and salvage yards. (See § 300-18.27 for standards.)
- B. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the Industrial District.
- C. Automobile fueling stations. (See § 300-18.26 for standards.)
- D. Adult regulated uses. (See § 300-18.25 for standards.)

## § 300-13.04. Development standards.

- A. Height. The maximum height of buildings and other structures erected or enlarged in this district shall be 35 feet, except that such height may be increased to a maximum of 65 feet, provided that for every foot of height in excess of 35 feet, there shall be added to each yard requirement one corresponding foot of width and depth.
- B. Front yards. There shall be a front yard on each lot which shall be not less than 50 feet in depth.
- C. Side yards. On each interior lot, there shall be two side yards, each side yard having a width of not less than 25 feet, except as provided in Subsection **F** hereof. Corner lots shall be as defined elsewhere in this chapter.
- D. Rear yards. There shall be a rear yard on each lot the depth of which shall be not less than 50 feet, except as provided in Subsection **F** hereof.
- E. Lot coverage. Not more than 50% of the area of any lot shall be occupied by buildings.
- F. Lots abutting residential districts. Unless authorized as a special use, in no case shall any building or structure be erected closer than 100 feet to any residential district nor shall any parking area be closer than 40 feet to any residential district, which forty-foot area between such parking lot and such residential district shall be maintained as green area entirely covered by grass, shrubs, and/or trees. See off-street parking regulations elsewhere in this chapter.
- G. Site plan review. Site plan review and approval is required for all uses, in accordance with Article **XXIII** pertaining to site plan review.
- H. Public water and sewer. Industrial developments shall be served by public sanitary sewer and public water supply systems as per Chapter **200**, Sewers, and Chapter **260**, Water, of the Township of Buchanan Code, or by private water and sewer systems when approved by the Berrien County Health Department and EGLE.
- I. Landscaping. Landscaping is required for all new uses, in accordance with Article **XX**, Landscaping Standards, of this chapter which also sets forth fencing and buffering requirements.
- J. Signage. Signage shall be installed as defined and regulated Article **XXI**, Signage, in this chapter.
- K. Parking. Parking is required for all new uses, subject to and in accordance with the Article **XIX**, Parking and Loading Standards, of this chapter.
- L. Fences. Fencing may be required as part of site plan review.

## Article XIV. PUD Planned Unit Development

### § 300-14.01. Description and purpose.

- A. To permit, as a form of special use permit, planned unit developments designed to encourage creativity and flexibility in the use and design of structures and land in the Township of Buchanan.

- B. A planned unit development (PUD) is intended to accomplish the following:
- (1) Result in a more efficient pattern of development, with shorter streets and utility networks.
  - (2) Preserve existing natural assets, such as stands of trees, floodplains, lake frontage, scenic vistas, prime farmland, and other open spaces.
  - (3) Accomplish a more desirable development plan than would be possible through the strict application of the minimum requirements of this chapter.
  - (4) Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all units.
  - (5) Provide for supportive mix of land uses and amenities such as day care, office, neighborhood retail, and similar uses, which in the opinion of the Planning Commission, are in conformance with the goals and objectives of the master plan and will enhance the residential stability and economic base of the Township of Buchanan through the application of a special use permit.
  - (6) Provide a mechanism for clustering of residential uses and permanent preservation/dedication of important open spaces and prime farmland.

## § 300-14.02. General requirements.

- A. Minimum project area. The minimum project area in all districts shall be 10 acres.
- B. The development must have direct access to a publicly maintained road.
- C. The principal permitted use shall be residential development, consistent with the zoning district of the proposed PUD.
- D. Nonresidential land uses may be integrated into the proposed PUD through approval of the special use permit. Commercial uses may be limited to the development of not more than 10% of the total project area. Examples of commercial uses may include retail stores, personal service establishments, bed-and-breakfast establishments, business or professional offices, golf courses with restaurants and retail components, and day care facilities. However, all proposed commercial uses must meet the intent of the provisions of Article **XXIV**, Special Use Permit, and be subject to reasonable terms established as part of the special use permit process.
- E. Each principal building in the proposed PUD must be connected to water and sewer facilities that are approved by the Berrien County Health Department and the EGLE.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- F. Each site shall be provided with adequate storm drainage. Open drainage courses and storm retention ponds shall be reviewed and may be permitted by the Berrien County Drain Commissioner.
- G. All utilities including telephone, electric, and cable, within the PUD, shall be located underground.
- H. The minimum area, dimensions and setbacks of individual buildings and lots may be reduced, provided the total number and density of dwellings shall be increased by not more than 15% greater than that which would ordinarily result under the district regulations. Land accruing from reduction in lot requirements shall be laid out, developed and perpetually reserved for open space, recreational and conservation purposes, with such land dedicated to the municipality or conveyed to another competent public or private entity.
- I. Under no circumstances shall industrial uses be permitted within a planned unit development.
- J. Common open space.
- (1) Common open space shall not include proposed street rights-of-way, open parking areas or commercial areas. Common open space may contain accessory structures, bicycle and/or



- walking paths, agricultural uses, wetlands, improvements necessary or desirable for religious, educational, non-commercial, recreational or cultural uses.
- (2) The area of common open space within a PUD project shall not be less than 20% of the total land area of the project. However, when a water or wetland feature exists on the subject site, water and/or wetlands shall not account for more than 50% of the required open space.
  - (3) Open spaces shall be conveniently located in relation to dwelling units.
  - (4) Open spaces shall have reasonable, minimum dimensions which are usable for the functions intended and which will be maintainable. Open space designs which emphasize perimeter walking paths as the primary open space feature are not permitted.
  - (5) All public areas and facilities which are to be dedicated to a public agency shall be so dedicated prior to approval of a final development plan, unless a binding agreement is provided in lieu of that dedication.
  - (6) Legal instruments setting forth the manner of permanent maintenance of common open space and facilities shall be submitted to the Township Attorney for review before the Township Board approves the final development plan. Such instruments may include dedication to permanent conservation easements or homeowner associations.
  - (7) Where a homeowners' association is to be used to maintain common open spaces and facilities, the developer shall file a declaration of covenants and restrictions that will govern the homeowners' association. The provisions shall include, but shall not be limited to the following:
    - (a) The homeowners' association shall be established before any dwelling in the PUD is sold;
    - (b) Membership in the homeowners' association shall be mandatory for each dwelling unit buyer and for any successive buyer and shall be so specified in the covenants;
    - (c) Restrictions shall be permanent;
    - (d) The homeowners' association shall be made responsible for liability; and dwelling owners shall pay their prorated share of the costs and this requirement shall be specified in the covenants.
    - (e) The parking requirements set forth in Article **XIX**, Parking and Loading Standards, shall apply, except the number of spaces may be reduced, if approved by the Township of Buchanan Planning Commission, as part of the final development plan. Such reductions shall be based upon specific findings.

### § 300-14.03. Informal preliminary conferences.

- A. Prior to a formal application, the applicant is required to have one informal preliminary conference with the Township Zoning Administrator, Planner, Attorney, the Township Supervisor, and a member of the Township Planning Commission. The purpose of the conference is to discuss the proposed development, review procedures, requirements and standards of the Township. The applicant is encouraged to present concept plans, site data and other information that will explain the proposed development. Statements made in these conferences shall not be legally binding.
- B. Application. Following the preliminary conference, the applicant shall file, on a form provided by the Township, an application for a PUD special use permit along with two paper sets and one digital copy of preliminary development plans and the application fee to the Township Clerk. The application shall, at a minimum, contain the following:  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
  - (1) The applicant's name, address, and phone number.

- (2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as a sales agreement).
  - (3) The name and address of all persons, firms or corporations having a legal or equitable interest in the property.
  - (4) The address of the property.
  - (5) The legal description and parcel identification number of the property.
  - (6) Project descriptions.
  - (7) Size of the property in acres.
  - (8) The signature of the applicant and/or the agent of the property owner.
  - (9) Two copies and one digital copy of the preliminary development plan, parallel plan, and impact assessment.
- C. Within 30 days of receipt of the completed application, application fee and preliminary development plan, the Township Zoning Administrator shall forward copies of the plan and the application form to the Township Engineer, planner and any other persons or agencies deemed appropriate. The balance of the plans and the original application form shall be distributed to the Planning Commission for review.
- D. Preliminary development plan. The preliminary development plan shall contain the following:
- (1) The date, North arrow, and scale, which shall not be smaller than one inch equals 50 feet.
  - (2) The location sketch of the site in relation to the surrounding area. This sketch shall label the land uses on all adjacent property.
  - (3) The legal description of the property.
  - (4) The parcel size in acres or square feet.
  - (5) All lot and property lines, with dimensions.
  - (6) The location of all existing and proposed structures on the site.
  - (7) The location of all existing and proposed streets, driveways, alleys, parking areas and easements, including the total number of parking spaces, parking calculations and typical dimensions.
  - (8) The size, location and proposed use of all areas devoted to open space.
  - (9) The general landscape concept, showing tree masses to be preserved, added buffer areas, screening, and similar features.
  - (10) All wetland areas, floodplain boundaries and bodies of water.
  - (11) Existing topographical contours at a minimum of two-foot intervals.
  - (12) General layout of all proposed utilities including: water, sewer, telephone, gas and electrical services.
- E. The applicant shall also provide a written statement describing each of the following:
- (1) The general character of the PUD.
  - (2) The gross residential densities and percent of the proposed PUD area to be covered by buildings and parking areas.
  - (3) The acres allocated to each use.

- (4) The method and responsibility for maintenance of open areas, private streets, recreational amenities and parking areas.
  - (5) All environmentally sensitive areas.
- F. Parallel plan. The applicant shall also prepare a parallel design plan for the project consistent with the requirements of the specific zoning district. A bonus of up to 15% of the permitted density may be granted based on the quality of design and preservation of upland, usable open space.
- (1) Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Environment, Great Lakes, and Energy Department (EGLE).
  - (2) The Planning Commission shall review the design to determine the number of lots that could feasibly be constructed following the parallel design. This number shall set the maximum density number of dwelling units for the site allowable under the PUD provisions of this chapter.
  - (3) Riparian lots shall not be reduced in size from the dimensions listed unless granted a variance by the Township Zoning Board of Appeals.
- G. Impact assessment:
- (1) The Planning Commission may require the applicant to prepare and submit an impact assessment. Preparation of the impact assessment shall be the responsibility of the applicant. The applicant shall use qualified professional personnel to complete the impact assessment. The impact assessment shall describe in detail the effect and impact that the proposed PUD will have, or may have, upon or with respect to any of the following:
    - (a) Streams, rivers, wetlands, and the quality of surface water and groundwaters.
    - (b) Public utilities.
    - (c) Displacement of people and other land uses by the proposed use.
    - (d) Character of the area.
    - (e) Traffic.
    - (f) Wildlife.
  - (2) The impact assessment shall include statements and comments from the following public agencies or officials concerning any aspects of the proposed PUD within their respective responsibilities and jurisdictions:
    - (a) Township Fire Department.
    - (b) School districts represented within the Township.
    - (c) The Michigan Environment, Great Lakes, and Energy Department, Department of Labor and Economic Growth, Department of Natural Resources and Department of Transportation.
    - (d) Berrien County: Sheriff's Department; Health Department; Road Department; Drain Commissioner.
    - (e) Such other agencies as determined appropriate by the Planning Commission.
  - (3) The Planning Commission and Township Board of Trustees shall consider the criteria listed in § 300-14.04C in their evaluation of the impact assessment. Failure to comply with any of the criteria shall be sufficient justification to deny approval.

## § 300-14.04. Public hearing and preliminary approval procedures.

- A. Within 60 days after receipt of the completed application and fee the Planning Commission shall schedule a public hearing on the request. The public hearing shall be noticed and held consistent with § 300-28.02C, Publication and delivery of notice of public hearing, of this chapter.
- B. Within 60 days of the public hearing the Planning Commission shall recommend to the Township Board of Trustees, one of the following:
  - (1) Approval of the preliminary development plan; or
  - (2) Approval of the preliminary development plan subject to certain specified conditions; or
  - (3) Denial of the preliminary development plan.
- C. In making a recommendation on the proposed PUD, the Planning Commission must address the following standards:
  - (1) Granting the PUD will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
  - (2) The PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
  - (3) The PUD will be compatible with the master plan of the Township, consistent with the intent and purpose of this chapter, and consistent with § 300-24.07F, Standards for granting special use approval, of this chapter.
  - (4) The PUD will not result in significant adverse effects upon nearby or adjacent lands, and will not change the essential character of the surrounding area.
  - (5) The PUD is designed and laid out to preserve natural resources and natural features to the fullest extent possible.
- D. Within 60 days after receipt of the Planning Commission's recommendation the Township Board of Trustees shall hold its own public hearing consistent with § 300-28.02C, Publication and delivery of notice of public hearing, of this chapter. Within 60 days of the public hearing, the Board shall:
  - (1) Approve the preliminary development plan with or without conditions;
  - (2) Deny approval of the preliminary development plan;
  - (3) Refer the preliminary development plan back to the Township Planning Commission for further review.

## § 300-14.05. Final approval procedures.

- A. After the preliminary development plan has been approved by the Township Board of Trustees the developer shall prepare the final development plan. The applicant shall submit two sets and one digital copy of the final development plans to the Township Zoning Administrator. The Zoning Administrator shall forward copies of the final plan to the Township Fire Chief, Township Attorney, engineer, planner and others deemed appropriate. The balance of the plans shall be distributed to the Planning Commission for their review.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- B. The final development plan shall include all of the information required on the preliminary development plan and all additional information requested by the Planning Commission.
- C. The final development plan shall incorporate all recommendations of the Planning Commission pursuant to the Commission's review of the preliminary development plan, or shall indicate how the final plan fails to incorporate the Board's recommendations. The plan shall be sealed by a licensed architect, register surveyor or professional engineer. The design professional shall be licensed in Michigan. In addition, final development plan shall include the following:
  - (1) Architectural renderings or specific statements as to the type and style of construction to be used in the proposed buildings along with the height and area of each building.
  - (2) Projected time for completion of the entire project.
  - (3) Proposed phasing, if any, and the projected time for completion of each phase.
  - (4) Landscaping plans.
  - (5) Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon.
  - (6) Engineering plans showing, as necessary, water, waste disposal, drainage, exterior and street lighting, electricity, telephone and natural gas installations, and the nature and extent of earthwork required for site preparation and development.
  - (7) Any other information required by the Planning Commission to assist in the evaluation of the proposed PUD.
  - (8) Copy of the master deed and bylaws.
  - (9) Copies of any easements, if applicable.
- D. Within 30 days of the receipt of the complete set of the final development plans the Planning Commission shall review the plans for their completeness, act upon the plans and send their recommendation to the Township Board.
- E. Within 30 days of the Township Board of Trustees receipt of the Planning Commission's recommendation, the Township Board shall review the final development plans and recommendation submitted by the Planning Commission. In making its decisions, the Township Board shall determine:
  - (1) Whether the final development plan complies with the standards, conditions, and requirements of this chapter.
  - (2) Whether the PUD promotes the intent and purposes of this chapter.
  - (3) Whether the PUD will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
  - (4) Whether the PUD will be consistent with the public health, safety, and welfare needs of the Township.
- F. Conditions. Reasonable conditions may be imposed upon the Township Board of Trustees' approval of a PUD.

## § 300-14.06. Application fee and escrow requirements.

The Township Board of Trustees shall, by resolution, establish a fee and escrow requirement for PUD applications under this chapter.

## § 300-14.07. Construction compliance.

Any permit issued for construction pursuant to the PUD shall be valid only so long as there is compliance with the final development plan as accepted by the Township Board of Trustees. Expiration of an approved final development plan shall be pursuant to § 300-14.09.

## § 300-14.08. Amendments and revisions; approval of minor changes.

- A. A developer may request a change in an approved final development plan. Except for those changes determined to be minor, as provided below, changes to an approved final development plan or any conditions imposed on a PUD shall be reviewed and approved, approved with conditions, or denied by the Planning Commission and the Township Board of Trustees pursuant to the procedures provided by this chapter for an original request.
- B. Minor changes to a final development plan may be approved by the Planning Commission without review and approval of the Township Board of Trustees. "Minor changes" are limited to the following:
  - (1) Changes in residential floor area of not more than 5% provided that there is no increase in the number of units.
  - (2) The relocation of building footprints by not more than three feet, unless a specific setback or separation distance is imposed as a condition of the PUD approval.
  - (3) An increase in area portions of the site designated as "not to be disturbed."
  - (4) The substitution of plant materials by similar types of landscaping on a one-to-one ratio, as determined by the Zoning Administrator.

## § 300-14.09. Expiration and extension of approval period.

- A. The approval of the final development plan for a PUD shall be for a period not to exceed two years from the date of the Township Board of Trustees final approval date. If no construction has begun within two years after the approval is granted, the approved final development plan shall be void. The Township Board of Trustees may require a new final development plan to be submitted and reviewed in accordance with the requirements for the original application. An extension of the time limit may be approved if the Township Board of Trustees finds that such extension or modification is not in conflict with the public interest.
- B. No zoning amendment passed during the time period granted for the approval of the final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

## Article XV. Open Space Preservation Option

### § 300-15.01. Description and purpose.

- A. The intent of this chapter is to encourage the long-term preservation of open space, agricultural land, other natural features, and the rural character of the Township of Buchanan in accordance with Section 506 of the Michigan Zoning Enabling Act, Act 110 of 2006, MCLA § 125.3506, as amended.

- B. An open space preservation development shall result in a recognizable and substantial benefit both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this chapter, such as high quality architectural design, extensive landscaping, provision of transition areas from adjacent land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands.

## § 300-15.02. Eligibility criteria.

- A. This chapter shall be applicable to residential properties zoned AG, Agricultural District and the R-1 Low Density (Rural) Residential District. The minimum project size shall be 10 acres.
- B. The provisions in this section shall supplement the existing regulations applicable within the AG and R-1 Zoning Districts in the event an owner of property elects to submit for development approval under the open space option provided in this article.
- C. Property meeting the eligibility requirements of this article may be developed, at the owner's option, with the same number of dwelling units on a portion of the land as specified herein that, as determined by the approving body, could have otherwise been developed on the same land under current ordinances, laws and rules, subject to and in accordance with the regulations of this article.

## § 300-15.03. Application and review requirements.

- A. An open space preservation development shall be subject to the application and procedural requirements of a preliminary plat if the land is proposed to be developed as a subdivision under the Land Division Act, a condominium plan pursuant to Article **XVI** of this chapter if the land is proposed to be developed as a site condo project, and/or otherwise incorporated into a site plan pursuant to Article **XXIII** in accordance with the requirements of this chapter. Such property shall be subject to all applicable requirements of the underlying zoning district except as modified by this article.
- B. The "approving body," as referenced in this article, shall mean the body designated in this chapter as having the authority to grant final plan approval to the proposed development.
- C. In addition to all other submittals and information required under this chapter, all open space option plans submitted to the Township shall include a resource inventory that contains the following:
  - (1) All floodplains, wetland, and bodies of water; and
  - (2) An analysis of on-site soils and topography to identify limitations to development.

## § 300-15.04. Density calculation.

- A. The density of dwelling units shall not exceed the density customarily developable in the zoning district in which the proposed development is located, developed with a conventional layout and with all applicable laws and ordinance being observed.
- B. A parallel plan shall be submitted to the reviewing authority in order to establish the maximum permitted density. The parallel plan shall identify how a parcel could be developed under the conventional standards of the specific zoning district in which the property is situated, and the requirements of all other applicable state and Township regulations and standards. The parallel plan shall provide lots with building envelopes of sufficient size, taking into consideration sanitary sewage disposal capacity, topography, easements or encumbrances, drainage retention/detention

areas, along with all necessary roads and road-related improvements, without impacting natural areas and features required to be preserved under applicable law and ordinance. All unbuildable areas and areas with limitations to development must be accurately identified on the parallel plan, including, but not limited to, wetlands, watercourses, drains, floodplains, steep slopes, woodlands and similar features. It is not the intent of this provision to generally require detailed engineering in the preparation of this plan; however, it must be a realistic plan of development, taking into consideration the actual assets and constraints of the property.

- C. The reviewing authority shall make the determination that a parallel plan is acceptable once it meets all applicable Township Ordinance requirements and, based on the parallel plan, determine the number of units permitted under the open space option provided in this chapter.

## § 300-15.05. Design requirements.

The following design requirements shall apply to a proposed open space development under this chapter. The design requirements shall be incorporated into a preliminary plat if the land is proposed to be developed as a subdivision under the Township of Buchanan Subdivision Ordinance or the Land Division Act, a condominium plan consistent with Article **XVI** of this chapter if the land is proposed to be developed as a condominium project, and otherwise incorporated into a site plan in accordance with the requirements of Article **XXIII** of this chapter.

- A. A minimum of 50% of the gross site area (not including existing road right-of-way) shall be preserved as permanent open space in an undeveloped state in the manner set forth in § 300-15.06.
- B. Permanent open space shall include the site's most significant natural, environmental, agricultural and/or cultural features including, but not limited to, the following:
- (1) Wetlands, floodplains, and natural watercourses;
  - (2) Woodlands;
  - (3) Recreational pathways and other permitted recreational facilities, but not including a golf course;
  - (4) Buffers from major thoroughfares and more intense land uses; and
  - (5) Similar features acceptable to the approving body.
- C. The applicant for an open space development shall be entitled to an approval under this chapter provided the following aspects of the proposed development plan shall be reviewed following a public hearing by the approving body:
- (1) The area and width of the resulting individual lots and building setback requirements under the open space option shall be reasonable and rationally related to the type of development proposed and shall comply with the standards, requirements and intent of the specific zoning district in which the proposed development is located to the maximum extent feasible. In no event shall a lot size be reduced more than 50% of the required lot size, and lot width and setback may be reduced no greater than 33% of the required lot width and setback in the district. Factors to be considered in determining the reasonableness of the area, width and setback requirements shall include the amount of open space, the density as determined by the approving body under the parallel plan, and the required setbacks, minimum lot width, and maximum lot coverage for the particular zoning district. Final area, width and setback requirements under the open space option plan shall be approved by the approving authority in the manner set forth in § 300-15.03 above.
  - (2) Lot layout and configuration shall result in lots or units feasible for development and use of residences, and in the maintenance of a reasonable buffer between an open space development hereunder and adjacent public thoroughfares and other land which is



- developed, or may be developed, for noncluster residential development. Each lot or unit shall be depicted on the plan with a proposed building envelope in which a proposed residence may be constructed and used, including all likely improvement, without the necessity of the granting of a variance by the Zoning Board of Appeals.
- D. Open space areas shall be accessible to all lots in the development, either directly from the internal road network or, if approved in the discretion of the approving body, directly from another manner of access providing perpetually existing and maintained pedestrian accessibility to all lots.
  - E. Preserved open space shall be connected with adjacent open space, public land, and existing or planned bike paths, where feasible, as determined by the approving body.
  - F. Approval of an open space option development does not constitute a change in the zoning of the property, and except as specifically provided in this chapter, all other regulations applicable within the zoning district of the property and development shall apply.
  - G. Restrictions.
    - (1) Nothing in this chapter shall allow the construction of multifamily residential units in a single-family residential district.
    - (2) Nothing in this chapter shall allow a development to result in the creation of a nuisance, danger or hazard to the health, safety and welfare of any person or property.
    - (3) Any development proposed utilizing the open space option provided in this chapter shall, to the greatest extent feasible while remaining consistent with the requirement of Section 506 of the Act, MCLA § 125.3506, and comply with all zoning regulations and design standards applicable to the property.

## § 300-15.06. Open space maintenance and preservation.

- A. All open space shall remain perpetually in an undeveloped state by means of a conservation easement to be recorded with the Berrien County Register of Deeds. All such conservation easements shall clarify ownership, access/use rights, and perpetual maintenance, and shall be approved by the approving body prior to final approval of the development, and shall be received and approved as to substance and form by the Township Attorney prior to acceptance by the approving body.
- B. Nothing in this chapter shall be construed to require the property owner to convey fee title ownership of the open space to the public.

## Article XVI. Site Condominiums

### § 300-16.01. Condominium development standards.

- A. Purpose and scope.
  - (1) Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, related common element, shall be considered to constitute a building site, which is the functional equivalent of a "lot" for the purpose of this chapter and other applicable laws, ordinances, and regulations. Site condominium projects may also include general common elements consisting of community open space, recreational areas, streets, and other areas available for use by all owners of

condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the Ordinance may be permitted in a site condominium project.

- (2) The purpose of this section is to ensure that the plans for developments within the Township of Buchanan proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, MCLA § 559.101, as amended, shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, MCLA § 560.101 et seq., as amended. It is further the intent of this section to ensure that such development is in conformance with the requirements of this chapter, other applicable Township ordinances and state and federal regulations.

B. Step I Review: site condominium review and approval procedures (preliminary plan). Application for preliminary plan review and approval of a site condominium subdivision shall be in accordance with the following procedures:

- (1) Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. Ten days prior to this meeting, the applicant shall submit the following to the Zoning Administrator, who shall distribute it to all Planning Commission members.
  - (a) A sketch drawn to scale indicating the general location and configuration of the property to be developed, the alignment of streets and building sites, and the relationship of the proposed project to adjacent streets and neighboring properties.
  - (b) A statement regarding the provision of sewer service and water supply.
- (2) During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
  - (a) General requirements of this section and other applicable provisions of this chapter.
  - (b) Planned or anticipated sites of parks and recreation areas and other public uses.
  - (c) Utility system capabilities.
  - (d) Planned or anticipated public improvements including streets, utility extensions, and the like.
  - (e) Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
  - (f) Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
  - (g) This review is intended for informational purposes only and does not constitute binding commitments on the part of the Township, nor do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

C. Step II Review: Site condominium review and approval procedures.

- (1) An application for review of a site condominium subdivision project shall be made to the Township Clerk along with the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:
  - (a) Application for certificate of zoning compliance, which upon issuance shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to

the customary procedures applicable to Township approvals of individual uses on individual building sites.

- (b) The applicant's name, address, and phone number.
  - (c) Proof that the applicant is the owner of the property or has the legal or financial interest in the property, such as a purchase agreement.
  - (d) The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
  - (e) The legal description, address and tax parcel number of the property.
  - (f) Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
  - (g) Gross and net size of the parcel (in acres).
  - (h) Written comments and/or approvals from the list of agencies (EGLE, Berrien County Drain Commissioner, Berrien County Road Department, and other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases) resulting from their review of the site condominium subdivision plans, as applicable.
  - (i) A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
  - (j) A copy of any preliminary agreements which may be required before final plan approval is granted.
  - (k) A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the County Register of Deeds as required by state law.
- (2) The applicant shall provide at least two copies and one digital copy of the site condominium project plan and additional copies deemed necessary by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for the site condominium plan as required by Article **XXIII**.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (3) The application and plans shall be submitted at least 30 days before the next regularly scheduled meeting of the Planning Commission.
- (4) Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one copy to each member of the Planning Commission, and the Township Engineer or Planning Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
- (5) The Zoning Administrator shall notify by mail all the members of the Planning Commission that a meeting will take place at a specified time concerning the property proposal for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given consistent with § 300-28.02C, Publication and delivery of notice of public hearing, of this chapter. The Township Clerk shall also give such notice of the meeting as required by the Open Meetings Act. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants after the Township Attorney has reviewed them, in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this chapter and all other applicable local, state, county, and federal regulations, the Planning Commission shall make recommendation regarding the plan to the Township Board of Trustees. If the plan does not meet the requirements of this chapter, the Planning Commission shall:

- [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (a) Recommend denial of the preliminary plan, setting forth the reasons in writing, or
  - (b) Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.
- D. Setbacks and boundaries. The setback requirements for condominium buildings shall be determined as follows:
- (1) Single-family units.
    - (a) The front yard setback shall be 1/2 the approved or recorded street right-of-way, plus the current setback for the existing zoning district.
    - (b) The side yard setbacks shall be 1 1/2 the minimum required within the zoning district. The minimum distance from the leading edge of the building to the limit of development (outer property line of the total development) shall be a distance equal to the rear yard setback.
    - (c) The rear yard setback between the rear of two units (lots) shall be twice the minimum rear yard setback of the zoning district. The minimum distance from the rear leading edge of the building to the limit of development (outer property line of the total development) shall be a distance equal to the rear yard setback.
  - (2) Multiple-family dwelling units shall meet the standards of the R-2 Medium Density (Suburban) Residential District.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
  - (3) The relocation of boundaries as defined in Section 48 of the Michigan Condominium Act, MCLA § 559.148, shall conform to all setback requirements of this Subsection **D**, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the bylaws and recorded as part of the master deed.
- E. Common elements. After construction of a condominium unit, the undeveloped area of a unit shall become a common element.
- F. Subdivision of unit sites. Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the bylaws and recorded as part of the master deed.
- G. Conformance with subdivision regulations. All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this chapter or with the Code of the Township of Buchanan.
- H. Water and wastewater. The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and wastewater disposal.
- I. Expansion and conversion. Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.
- J. Master deed. The project developer shall furnish the Township with one copy of the proposed consolidated master deed, one copy of the bylaws, and two copies of the proposed plans, along with a digital copy of all documents. The proposed plans shall be reviewed for compliance with this chapter to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- K. As-built plans and occupancy. Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all

improvements required are installed provided that an escrow is submitted to the Township, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Planning Commission. Fees for these reviews shall be established and adjusted by the Township Board of Trustees.

- L. Final bylaws, consolidated master deed, and site plan. Upon approval of the development, the applicant shall furnish the Township with a copy of the bylaws and consolidated master deed.
- M. Compliance with other statutes and ordinances. All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.
- N. Following final review and revision, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
  - (1) Environment, Great Lakes and Energy (EGLE).  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
  - (2) Berrien County Drain Commission.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
  - (3) Berrien County Road Department.
  - (4) Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

## Article XVII. (Reserved)

## Article XVIII. General Provisions and Exceptions

### § 300-18.01. Description and purpose.

All uses and structures, whether permitted by right or by special use permit, shall be subject to the following general regulations of this chapter.

### § 300-18.02. General exceptions.

- A. Essential services. Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this chapter, except that all buildings hereunder shall be subject to site plan review in accordance with this chapter. The Zoning Board of Appeals may permit the erection of a building (or an addition to an existing building of a public service corporation or for public utility purposes), in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Zoning Board of Appeals finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- B. Township uses. Municipal buildings and their accessory uses and structures, public parks and their accompanying activity areas operated under the authority of the Township and recreational uses as permitted by the Township Board, shall be treated as permitted uses in any zoning district, subject to the development standards of the respective districts and the site plan requirements of Article **XXIII**.

## § 300-18.03. Easements.

It shall be unlawful for any person to install, erect, cause, or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

## § 300-18.04. Spatial relationships, grades and retaining walls.

### A. Spatial relationship standards.

- (1) A basement shall not be included as a story for height measurement.
- (2) Lot width shall be measured at the building line.
- (3) The minimum required setback is the minimum depth of a front, rear, or side yard necessary to conform to the required yard setback provisions of this chapter.

### B. Grades and elevation differentials.

- (1) The first floor elevation of a building constructed in a platted area shall be at least 18 inches above curb level of the street at the center of the lot. Where property is not platted the elevation of the structure shall be established so as to drain away from the structure.
- (2) The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties.

### C. Retaining walls.

- (1) Retaining walls in excess of four feet in height shall require a building permit in accordance with the requirements of the Building Code in effect at the time. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.
- (2) All retaining walls shall be constructed and/or painted, tinted, or colored in a manner that is architecturally compatible with surrounding buildings or structures.
- (3) For the purpose of this chapter, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view.
- (4) No sign or advertising shall be placed, affixed, painted, or designed thereon.

## § 300-18.05. Obstructions to vision on corner lots.

No structure, wall, fence, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted, or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three feet in height above the curb level and trees where all branches are not less than eight feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

## § 300-18.06. Fence, wall and privacy screen regulations.

Fences, walls, and privacy screens are permitted subject to the following:

- A. The erection, construction, or alteration of any fence, wall, or privacy screen as defined herein, shall be constructed within all Township and County Codes and shall require a zoning compliance permit.
- B. Fences shall not be taller than four feet in a required front yard nor higher than six feet in a required side or rear yard for parcels located in all zoning districts.
- C. Fences with barbed wire and electrical current are prohibited in the residential zoning districts.
- D. A four-foot fence shall surround all swimming pools in accordance with the regulations outlined in the Michigan Building Code as amended.

## § 300-18.07. Winery, brewery or distillery.

A winery, brewery or distillery may be permitted by the Township as a special use in the AG District in accordance with Article **XXIV**. An application for a winery, brewery or distillery shall include a site plan in accordance with Article **XXIII** with detail on parking, sanitation, refuse and solid waste management, outdoor lighting, fencing, crowd control, on-site vehicular and pedestrian circulation, details on any public address system and equipment, signage and related existing and proposed facilities, as applicable. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the special use permit application to be relied upon by the Township in granting any approval.

- A. The Planning Commission and Township Board shall evaluate the proposed winery, brewery or distillery and the activities proposed to determine whether it will be compatible with neighboring uses and other permitted uses in the vicinity and zoning district.
- B. The winery, brewery or distillery use shall comprise only a small part of the property, so that the farm use of the site is predominant and the winery, brewery or distillery use is secondary. The Township may approve a proposed departure from this requirement if it finds that the proposed winery, brewery or distillery and its activities are substantially farm-related or that the establishment and its activities would not have impacts on the vicinity similar to impacts generated by a commercial business, including consideration of traffic, light pollution, noise, blowing trash, signage, odor, and aesthetics.
- C. The Township may impose requirements on the placement of the facility on the site to protect adjacent properties from its impacts and to maintain rural views from public roads. The facility and all of its outdoor ancillary structures and activities such as parking and gathering space shall be located at least 50 feet from property lines. The Township may approve a proposed departure from this requirement, if it finds that locational and layout attributes, buffers, adjacent uses and site configurations, and other features of the subject site and nearby property work together to minimize impacts of the proposed winery, brewery or distillery; provided, that dimensional requirements of § 300-4.04 and other regulations of this chapter are met.
- D. The Township may require submittal of a traffic impact study, the purpose of which shall be to analyze the effect of traffic generated by the proposed use on the capacity, operations, and safety of the public road system and to propose mitigation measures.
- E. Tasting rooms and food service activities, if provided, shall at all times comply with any and all requirements of the Berrien County Health Department and the Michigan Liquor Control

Commission and evidence of applicable agency review and approval shall be provided to the Township.

- F. The Township may require landscaping and other features to screen the use from adjacent properties and the Township may impose limitations on the operation of the facility to protect adjacent properties from its impacts. Such limitations may pertain to hours of operation, outdoor lighting, outdoor activities, noise, and other elements.
- G. The applicant shall demonstrate that all vehicular parking will occur on the site. A pervious parking surface is permitted, subject to demonstration by the applicant that dust would be controlled.

## § 300-18.08. Storage of obnoxious matter in open containers prohibited.

No garbage, filth, refuse, or other obnoxious matter shall be kept in open containers, piled, or laid on the open ground; and all containers shall be stored in such a way so as not to be accessible to animals.

## § 300-18.09. Climate-controlled storage facilities.

[Added 12-19-2019 by Ord. No. 118-2019]

A climate-controlled storage facility may be permitted by the Township as a special use in the Commercial District in accordance with Article **XXIV**. An application for a climate-controlled storage facility shall include a site plan in accordance with Article **XXIII**. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on-site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the special use permit application to be relied upon by the Township in granting any approval.

- A. Climate controlled self-service storage uses shall provide separate storage areas for individual or business uses.
- B. Accessory uses, such as security facilities and related office, may be permitted, provided that such accessory uses do not occupy more than 20% of the facility.
- C. Storage areas shall not be used for sales, service, repair or any other commercial business venture at this facility.
- D. A climate-controlled storage facility shall be located on a parcel with an area of at least three acres.
- E. The storage of combustible or flammable liquids or fibers, explosive or toxic materials, or illegal substances or items shall not be permitted.
- F. All self-storage activities shall be contained within a single building and conducted exclusively indoors. Individual storage units may be accessed from inside the building only.

## § 300-18.10. Outdoor storage of unlicensed recreational and other vehicles and equipment in residential and agricultural districts.

The outdoor storage or parking of any unlicensed airplane, regular or antique or racing automobile, boat, boat hoist or dock, float, trailer, trailer coach, camping trailer, motorized home, vacant or unused



mobile (manufactured) home, dismountable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature (not including typical farm equipment), shall be prohibited for a period greater than 48 hours in all residential and agricultural districts, except where the following minimum conditions are met:

- A. All such unlicensed vehicles or equipment may be placed within a completely enclosed building, permitted according to the minimum requirements of the building code. Unlicensed vehicles may not be stored on vacant lots, parcels, or property.
- B. Trailer coaches, motor homes and other vehicles or equipment designed or adaptable for sleeping purposes may be utilized for up to 30 days during the course of one calendar year for visitors. They shall otherwise remain unoccupied and shall not be connected to sanitary sewer facilities, water or gas. Such vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of said uses (recreational vehicles and equipment) is prohibited. This provision shall not pertain to farm implements, machinery and equipment utilized for permitted agricultural operations.
- C. Seasonal storage of licensed recreational vehicles shall be permitted.
- D. The storage of vacant mobile homes in any district shall be prohibited; with the exception of approved and permitted sales and service facilities located in a designated commercial district.
- E. The open storage of inoperable, disassembled or component parts for any vehicle of any type within the front yard shall be deemed a nuisance and shall be prohibited at all times. Said open storage shall be permitted in any other yard in the Agriculture District as long as said storage area complies with minimum setback standards, is effectively screened year-round from view from neighboring properties and from public rights-of-way and does not exceed a cumulative ground area equal to the lesser of 2% of the parcel area or 2,000 square feet.
- F. The use of unlicensed or inoperable trailers, semi truck trailers, sea containers, mobile homes or other similar equipment as storage structures or accessory buildings in the R-1, R-2, R-3, R-4L, R-4R, R-5 and RE Districts shall be prohibited. In the AG District, such equipment may be used only if it is placed in the side or rear yard in compliance with required side and rear yard setback requirements, is effectively screened year-round from view from neighboring properties and from public rights-of-way and does not exceed a cumulative ground area equal to the lesser of 2% of the parcel area or 2,000 square feet.

### § 300-18.11. Farm regulations; migrant conditions.

- A. Farm workers/migrant help. All structures hereafter erected, or moved onto farms and occupied as dwellings for employees thereon shall be located no less than 150 feet from all highway right-of-way lines, not less than 100 feet from all property lines, and not less than 250 feet from any neighboring dwelling. All structures maintained as housing for farm employees shall be occupied by such employees and their families only while engaged in work on the farm of residence.
- B. Toilets. Outside toilets for migrant farm help are permitted on farms provided such are a minimum distance of 150 feet from any public road, 100 feet from any property line and 250 feet from any dwelling house on neighboring property. Outside toilets must meet the standards as set by the Berrien County Health Department and other enforcement agencies.

### § 300-18.12. Dumpsters or outdoor trash receptacles.

Any new or altered use (except agricultural and farming operations) which requires site plan review pursuant to Article **XXIII** and has an outdoor trash storage area shall comply with the following requirements:

- A. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
- B. A decorative masonry wall or wooden privacy fence of six feet in height shall enclose three sides of the storage area. Post bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any such storage area shall be constructed of concrete.
- C. In no instance shall any such refuse be visible above the required enclosure.
- D. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- E. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring or screening gate when the visibility of such a storage area, from a public street, public right-of-way or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

## § 300-18.13. Swimming pool regulations.

- A. Permit application. All swimming pools shall comply with the Michigan Residential Building Code, as amended. It shall be unlawful for any person to construct an above-ground, in-ground, or on-ground swimming pool with a depth in excess of 24 inches without first obtaining a zoning compliance permit, and additionally, a building permit pursuant to the Michigan Residential Building Code, if necessary. Application for such permit shall be subject to the requirements of the Building Code in effect at the time of the construction; shall show the name of the owner, a plot plan of the property showing the location of such swimming pool, a detailed plan and specifications for such swimming pool, and full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.
- B. Location. Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than 15 feet from the side or rear lot lines.
- C. Fencing. All above- and below-ground swimming pools shall be protected in a manner which meets the minimum requirements of the Michigan Residential Building Code.
- D. A swimming pool shall be considered an accessory structure for purposes of calculating lot coverage.

## § 300-18.14. Home occupations.

Subject to the standards of this section, a home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted either as a permitted use or by special land use, subject to the following standards:

- A. Minor home occupations. Home occupations shall receive a zoning permit upon a finding by the Zoning Administrator that the proposed home occupation shall comply with all of the following requirements.
  - (1) No more than one person (not including the members of the family residing on the premises) shall be engaged in such occupation provided that one off-street parking space is provided for said employee.
  - (2) The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than 25% of the floor area of the floor on

which the occupation is being conducted may be used for the purposes of the home occupation or for storage purposes in conjunction with the home occupation.

- (3) A home occupation shall be conducted completely within the dwelling unit or permitted accessory building. A home occupation conducted within an accessory building shall not exceed 1,000 square feet.
- (4) There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall be no external or internal alterations not customary in residential areas including the expansion of off-street parking areas in excess of residential standards.
- (5) A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communications interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.
- (6) Signs shall comply with the requirements of Article **XXI**.
- (7) No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises. No storage or use of vehicles over five tons in capacity gross vehicle weight (GVW) in conjunction with the business will be allowed.
- (8) The use shall not include the sale or offering for sale on the premises of any articles, goods, or merchandise.
- (9) Medical marijuana primary caregiver home occupation. In addition to the regulations above, a primary caregiver home occupation shall be subject to the following:
  - (a) Purpose and intent. It is the purpose of this § 300-18.14A(9) to give effect to the intent of Initiated Law 1 of 2008, the Michigan Medical Marihuana Act (the MMMA), MCLA § 333.26421 et seq., and not to establish any local program or regulation that would violate or contravene any enforced state or federal statute. The MMMA authorizes a narrow exception to the general rule and law that the cultivation, distribution and use of marihuana amount to criminal acts. It is the purpose of this section to establish standards for the application of that narrow exception in the Township of Buchanan to enable the legitimate and legally-authorized practice of the Primary Caregiver activity as set forth herein. It is not the intent of this section to broaden the strict interpretation of the MMMA to apply to activities not explicitly provided for therein nor is it the intent of this section to encourage or sanction the cultivation, processing, refinement, distribution, transfer or use of marihuana except as permitted by a strict application of the terms of the MMMA and any rules or regulations duly promulgated thereunder. Such uses as dispensaries, combined grow operations, compassion clubs, smoke houses, storage and transfer facilities and other related uses not explicitly provided for in the MMMA are hereby prohibited.
  - (b) A primary caregiver, cohabitating, as defined in § 300-2.02, assisting no more than one qualifying patient living in the same residence, shall be allowed without a zoning permit within any dwelling unit in the Township, providing such activity is conducted in strict accordance with the MMMA and the rules promulgated there under.
  - (c) A primary caregiver serving more than one cohabitating qualifying patient or one, but not more than five, noncohabitating qualifying patients shall be permitted within the Agricultural District only, subject to the following requirements:
    - [1] Primary caregivers shall deliver medical marijuana to the qualified patients, as defined in the MMMA, and no dispensing or sale of medical marihuana shall occur on the premises.
    - [2] Growing operations shall be fully contained within a locked and secured building, in compliance with the MMMA.

- [3] Only one person residing within dwelling shall be permitted to be a primary caregiver for those who do not reside within the dwelling.
  - [4] All growing, processing operations and use shall be conducted in compliance with the MMMA, and other applicable state laws and regulations.
  - [5] Structures containing a primary caregiver home occupation shall conform to applicable standards of the ICC Property Maintenance Code, or any successor code adopted by the Township.
  - [6] At the time of application, a primary caregiver home occupation shall not be located closer than 1,000 feet from any church, public or private school, park or day-care facility. Such distance shall be measured in a straight line from the front door of the primary caregiver home occupation to any such church, public or private school or day-care facility. In the case of a park, the distance shall be measured from the front door of the primary caregiver home occupation to the nearest property line of the park.
  - [7] A primary caregiver home occupation shall not bear any sign or emblem that would indicate the presence of the activity.
- B. Major home occupations. Home occupations that do not meet the standards of § 300-18.14A, may be approved by the Planning Commission as special land uses subject to the requirements of Article **XXIV** and upon a finding of compliance with the following requirements:
- (1) In addition to the occupants of the residence and not more than two nonresident employees on site, a major home occupation may employ other persons, provided their work activities are generally undertaken at locations other than the location of the dwelling.
  - (2) The applicant shall disclose the nature, size and number of any vehicles or other equipment associated with the major home occupation and the Planning Commission may establish limits on the outdoor storage and parking of such equipment or vehicles to preserve the essential character of the neighborhood. Any outdoor storage of materials or scrap shall be effectively screened from view from neighboring properties.
  - (3) The operator of a proposed major home occupation shall attach to the application an operational plan for the major home occupation to the application for a zoning permit for the major home occupation. The operational plan shall provide the following information:
    - (a) The hours the major home occupation will operate.
    - (b) A description of employee parking and workforce staging plans.
    - (c) A site plan in accord with Article **XXIII** indicating the location of any storage of materials, vehicles and equipment as well as any employee or customer parking.
    - (d) A description of the shipping and delivery requirements of the major home occupation.
    - (e) A description of any material used in the major home occupation which will be stored on the premises.
  - (4) The Planning Commission shall review the application for a major home occupation under the terms of Article **XXIV** and take action to approve it, if it finds that the proposed major home occupation shall meet the requirements of this section and Article **XXIV**.
  - (5) Any change or alteration in the nature or activities of a major home occupation shall be regarded as a new major home occupation and shall require a new application hereunder.
  - (6) A failure to fulfill the terms of the major home occupation special land use permit, the site plan and/or its attachments shall be grounds for revocation of Planning Commission approval of a major home occupation.

- C. Fees for all home occupation permits shall be set by resolution of the Township Board.
- D. Exemption. No home occupation permit shall be required for an occupant of a residence to give instruction in a craft or fine art within the residence or for activities such as telecommuting, involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home.

## § 300-18.15. Temporary and portable buildings, uses, and structures.

- A. Temporary sales of farm produce and similar products, when a structure is erected, may be permitted provided they comply with the following standards and upon issuance of a zoning compliance permit:
  - (1) The sale of farm produce employing permanent structures with a floor area of less than 100 square feet shall be permitted only in the AG District and in unplatted properties in the R-1 District.
  - (2) The sale of farm produce employing permanent structures with a floor area of 100 square feet or more may be permitted in the AG District and upon approval of a Special Use Permit by the Planning Commission.
  - (3) All permanent structures used in the temporary (or intermittent) sale of farm produce shall comply with the four standards outlined in Subsection **B** below.
  - (4) For the purposes of this section, a structure shall be considered permanent if it is mounted on a concrete slab, concrete or cement block foundation or secured to the ground by anchor, rod, rod drill or buried weight.
- B. Temporary sales of farm produce and similar products, when no structures are erected, may be permitted in the AG and R-1 Districts provided they comply with the following standards and upon issuance of a zoning compliance permit:
  - (1) The location of the site shall be:
    - (a) Off the road right-of-way at least 25 feet.
    - (b) If located on a corner, the entrance/exit should be off of the side road.
  - (2) There shall be no permanent structures; all fixtures (i.e., signs, tables, chairs, produce, boxes, etc.) are to be removed at the end of each season.
  - (3) A maximum of two signs will be permitted. Signs shall be off the road right-of-way and located on the applicant's property.
  - (4) The operator shall comply with all state laws regarding public health standards; sales and business tax regulations.
- C. Structures erected for ice fishing and hunting purposes less than 100 square feet in area are permitted in the Township of Buchanan and are exempt from the provisions of this chapter. Storage shall be according to the provisions of this chapter relating to accessory structures.
- D. The office and storage trailers of building contractors used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be setback at least 10 feet from all property lines and be removed prior to issuance of a certificate of occupancy for the building under construction on the property.
- E. Family hardship and temporary housing. A temporary dwelling may be located in the AG District or on a residentially zoned lot in excess of two acres.

## (1) General standards.

- (a) Application by the owner or his agent to obtain allowance for a family hardship or temporary housing special use permit shall be submitted to the Zoning Administrator in accordance with this chapter. Special use permit for such use shall be considered in accordance with this section and Article **XXIV**, Special Use Permits.
  - (b) In addition to the requirements of Article **XXIV**, the applicant shall show through substantial evidence that no other dwelling option exists which would accommodate the temporary need.
  - (c) The temporary dwelling shall be connected to an approved water and septic system as required by the Berrien County Health Department.
  - (d) Minimum road frontage, setback and yard requirements as specified by this chapter shall be maintained.
  - (e) The special use permit shall be reviewed and renewed annually while it is in effect through submission by the applicant of documentation that the circumstances necessitating the family hardship or temporary housing have not changed. The temporary housing shall be removed within 120 days of the end of the hardship, or the circumstances necessitating the temporary housing, including the vacating of the temporary housing, the death or moving of the occupants, the completion of repairs to the principal dwelling or other circumstance. In no event shall the duration of a special use permit for family hardship or temporary housing exceed five years. Provided, this provision shall not prevent the Township from considering a new or replacement special use permit prior to the expiration of a previous permit, upon the same terms and conditions, and provided that all the circumstances necessitating the original permit have not changed.
  - (f) Upon approval of a special use permit for family hardship or temporary housing, the property owner and the Township shall execute a legally binding agreement prepared by the Township Attorney which shall be in recordable form and which shall incorporate the terms of the permit, including an acknowledgement of the terms of the permit by the property owner. Such agreement may include a performance guarantee for the eventual removal of the temporary dwelling unit, site restoration and other associated costs as determined by the Township Board. This agreement between the owner and the Township shall allow the Township the right to remove the temporary dwelling upon the expiration or termination of the special use permit, in the event the property owner fails to do so. This binding agreement shall be provided by the Township and signed by the owner of the property and the Township Supervisor.
  - (g) Pursuant to § 300-24.06, the Township Board may establish conditions of approval as may be reasonable to ensure the compliance with the provisions of this chapter.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (2) Family hardship housing. A special use permit may be considered under this section for temporary occupancy by either the owner or a member of the immediate family (grandmother, grandfather, mother, father, son or daughter or in-law relatives) subject to the restrictions and conditions outlined herein.
- (3) Temporary housing. It is the intent of this section to allow relief of hardship for owners of single-family dwelling units which have been rendered uninhabitable by fire, windstorm or other event not intentionally caused by the owner of a dwelling. The owner of the dwelling may, by approval of the Zoning Administrator, place one mobile home sited in accordance with the County Health Department Standards, to be occupied by the owner of the property as long as prompt progress is being made toward repair or construction of the principle dwelling.

F. Seasonal uses. The Zoning Administrator may issue a permit for the temporary sale of merchandise related to a seasonal or period event. Seasonal uses shall include the sale of

Christmas trees, and similar activities, but shall not include roadside stands. In considering a request for a temporary permit, the Zoning Administrator shall determine that the operation of the use is seasonal in nature and will not be established as a permanent use.

- (1) The Zoning Administrator shall also determine:
  - (a) That the use shall not have an unreasonable detrimental effect upon adjacent properties.
  - (b) That the use shall not impact the nature of the surrounding neighborhood.
  - (c) That access to the area shall not constitute a traffic hazard due to ingress or egress.
  - (d) That adequate off-street parking shall be available to accommodate the use.
  - (e) That the use complies with all setback requirements.
- (2) Each zoning compliance permit shall be valid for a period of not more than two calendar months, and may be renewed by the Zoning Administrator for up to one additional successive month, provided the season or event to which the use relates is continued.

## § 300-18.16. Building permits issued prior to effective date.

- A. Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this chapter may be completed and used in accordance with the plans and applications on which said building permit was granted.
- B. A building which is lawfully under construction at the time of adoption of this chapter shall be allowed to be completed within one year of the passage of this chapter. Adoption of this chapter shall not require any changes to the plans, construction or designated use of any such buildings.

## § 300-18.17. Restoration of unsafe buildings.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or required compliance with his or her lawful order, in accordance with the adopted Building and Property Maintenance Codes. Furthermore, upon the determination of the Building Inspector and official notification thereof to the property owner, the Township Board may order the demolition and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owner fails to pay for the cost of the removal within 60 days of the date the building was removed, the Township may either place a lien on the property or place the cost of said removal on the next available tax bill as a special assessment against the property.

## § 300-18.18. Moving of buildings.

- A. Any building or structure (except agricultural buildings) that has been wholly or partially erected on any premises located within the Township shall not be moved to or placed upon any other premises in the Township until a zoning compliance permit for such removal has been secured according to the requirements of this chapter. A zoning compliance permit is required above and beyond any over-the-road permits required by other jurisdictional authorities (police and Road Department). Any such building or structure shall fully conform to this chapter in the same manner as a new building or structure.
- B. Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy

for which it is to be used, and the Zoning Administrator shall determine whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or County may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions are met, a zoning compliance permit shall be issued to allow the reconstruction of such a building or structure.

## § 300-18.19. Exceptions to area and width requirements.

- A. Recorded lots. Lots established by a legally recorded plat or legally established and recorded by deed prior to the adoption of this chapter which have less than the minimum area or width requirements established by this chapter, may be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this chapter and which met the requirements of said Ordinance at the time they were established, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may be used for any use permitted within the district in which such lot is located.
- B. Lack of public utilities. In areas not served by public or other approved community water and/or sewage facilities, the minimum lot areas required by this chapter shall be increased to include any additional area deemed necessary by the appropriate Berrien County Health Department requirements to insure safe water supply and/or adequate sewage disposal.

## § 300-18.20. One principal use on a lot.

Each parcel in the Township shall be limited to not more than one principal use; provided that multiple-tenant or multiple-occupant commercial, industrial or mixed use developments may be regarded as single uses if approved pursuant to the standards of this chapter.

## § 300-18.21. Illegal dwellings.

The use of any portion of the basement of a partially completed building found not to be in compliance with the Building Code, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an Industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

## § 300-18.22. Projections into yards.

- A. Cornice, sill, chimney, or fireplace. A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two inches for each one foot of width of such side yard and may extend or project into a required front or rear yard not more than 36 inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two feet, provided the width of such side yard is not reduced to less than five feet.
- B. Fire escape. A fire escape may extend or project into any front, side, or rear yard not more than four feet.
- C. Open stairway or balcony. An open, unenclosed stairway or balcony not covered by a roof or canopy, may extend or project into a required yard not more than six feet and such balcony may



extend into a required front yard not more than six feet as long as all required setbacks for that district are maintained.

- D. Porch, open. An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than six feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

## § 300-18.23. Access through yards.

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Furthermore, any walk, terrace, or other pavement serving a like function shall be permitted in any required yard. Parking within the required front yard of a one or two-family dwelling shall only be permitted as specified in Article **XIX**, Parking and Loading Standards.

## § 300-18.24. Accessory buildings and structures.

Accessory buildings and structures, except as otherwise permitted in this chapter, shall be subject to the following regulations:

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to, and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.
- B. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use except as otherwise provided for in the AG zoning district.
- C. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main or principal buildings.
- D. Accessory buildings may be built in a rear yard (or front yard, subject to § 300-18.24F); but such accessory buildings shall not occupy more than 30% of the yard in which they are located, subject to setback, lot coverage, and other standards of this chapter.
- E. Accessory buildings with an area of 145 square feet or less, shall be limited to one story (or 20 feet) in height.
- F. Accessory buildings shall not be erected in a front yard unless the accessory building is located 300 feet or more from the front lot line and located on a lot of two acres or larger. The Agricultural District (AG) is exempt from this subsection.
- G. All accessory buildings shall be located to meet the minimum side and rear yard setbacks for the district in which they are located.
- H. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- I. No accessory building may be closer than six feet to any other accessory building, unless determined that the distance shall be greater as mandated by applicable provisions of the adopted Building Code.

## § 300-18.25. Adult regulated uses and sexually oriented businesses.

A. Authorization.

- (1) In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a detrimental effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.
- (2) However, it is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Special designation and regulation in the Industrial District is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less detrimental.

B. Uses specified. Uses subject to these controls as defined herein as "adult only businesses" are as follows:

- (1) Adult related businesses.
- (2) Adult motion-picture theaters.
- (3) Adult book and video stores.
- (4) Adult cabarets.
- (5) Nude artist and photography studios.

C. Site location principles. The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such a use upon the Industrial District:

- (1) No adult-only business shall be located within 1,000 feet, measured from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated, from a residential structure, church, monastery, temple, or similar place of worship, cemetery, school, library, public park or playground, noncommercial assembly facility, public office building, licensed day-care facility or arcade as defined in Act 116 of the Public Acts of 1973, as amended (MCLA § 722.111 et seq.).
- (2) An adult-only business shall be permitted only in the Industrial District.
- (3) No adult-only business shall be permitted within a one-thousand-foot radius of an existing adult-only business. Measurement of the one-thousand-foot radius shall be made from the outer most boundaries of the lots or parcels upon which the proposed adult use will be situated.

D. Site development requirements.

- (1) The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
- (2) Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this chapter and shall be approved by the Planning Commission prior to their use.
- (3) All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semipublic area as

determined by the Planning Commission.

- (4) No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semipublic areas.
- (5) An adult-only business shall clearly post at the entrance to the business, (or that portion of the business utilized for adult only purposes), that minors are excluded.

E. Use regulations.

- (1) No person shall reside in or permit a person to reside in the premises of an adult-only business.
- (2) No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the fees for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
- (3) The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCLA § 722.51 et seq., as amended.
- (4) No adult only business shall possess, disseminate, or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCLA § 752.361 et seq., as amended.
- (5) No person shall operate an adult personal service business without obtaining a zoning compliance permit and building occupancy permit. Such licenses shall be issued by the Zoning Administrator, Building Inspector, or duly appointed designee following an inspection to determine compliance with the relevant ordinances of the Township of Buchanan. Such license shall be subject to all regulations of federal, state, and local governments.
- (6) No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from the Township of Buchanan, County of Berrien, and State of Michigan.
- (7) Conditions and limitations. Prior to the granting of any permit herein provided, the Planning Commission or Township Board may impose any such conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may in its judgment, be necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license issued.
- (8) Limit on re-application. No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

## § 300-18.26. Automobile fueling stations and service stations.

- A. Purpose. In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automotive fueling stations and service stations and to regulate and control other problems incidental to these uses that they may exercise upon adjacent and surrounding areas, the following regulations and requirements shall be required in any zoning district. All automotive fueling stations and service stations erected after the effective date of this chapter shall comply with this section. No automotive fueling station or service station existing on

the effective date of this chapter shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this chapter.

- B. Minimum area and frontage. An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than 150 feet and having a minimum area of 15,000 square feet.
- C. Setbacks. An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than 40 feet from any street lot line and not less than 40 feet from any side or rear lot line directly adjoining a residential zoning district.
- D. Driveway and curbs. All driveways providing ingress to or egress from an automotive fueling station, service station, repair center, or public garage shall comply with the access management standards of this chapter. All drive approaches shall otherwise meet Berrien County Road Department or Michigan Department of Transportation standards for construction, turning lanes, and placement.
- E. Paved areas. All parking areas, aisles, driveways and loading areas shall be hard surfaced with concrete or a plant-mixed bituminous (asphalt) material, except undeveloped and landscaped areas. All parking areas, isles, driveways and loading areas shall be exclusive of the public right-of-way.
- F. Equipment location. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than 15 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 overhanging any public sidewalk, street, or right-of-way.
- G. Number of pumps. An automotive fueling station, service station, or repair center located on a lot having an area of 15,000 square feet or less shall include not more than four double gasoline and fuel pumps or eight single gasoline and fuel pumps and two enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two gasoline and fuel pumps and/or one enclosed stall may be included with the provision of each additional 200 square feet of lot area.
- H. Walls and screening. Where an automotive fueling station, service station, repair center, or public garage adjoins property located in any residential zoning district, screening shall be provided.
- I. Lighting. All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property and shall comply with all requirements of this chapter.
- J. Outdoor storage and parking. All major repair work shall be conducted completely within an enclosed building. Minor repair work (i.e., the replacement of wipers, light bulbs, batteries, etc.) taking one hour or less to complete shall be permitted. There shall be no storage of vehicle components, parts, trash, supplies, or equipment outside of a building. Outdoor storage or parking of vehicles or trailers, other than private passenger vehicles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day, except that equipment rental operations shall be permitted if incidental to the automotive fueling station, service station, or repair center, and if restricted to travel trailers or campers of under 21 feet overall length, car-top carriers, and similar auto accessories. Such operations shall be within fenced enclosures observing the same setbacks required for buildings in the zoning district wherein the automotive fueling station, service station, or repair center is located.
- K. Removal of underground storage tanks. In the event that an automotive fueling station, service station, repair center, or public garage use has been abandoned or terminated for a period of more than one year, all underground storage tanks for any petroleum product or waste oil shall be removed from the premises in accordance with state and federal regulations and statute.

## § 300-18.27. Junkyards and salvage operations.

- A. All applicable requirements in the IND or RS Districts must be met.
- B. The proposed buildings and structures shall be so situated as to minimize adverse effects therefrom upon owners and occupants of adjacent properties.
- C. Any adverse effects of the junkyard shall be minimized by screening, fencing, landscaping, setbacks, building location, structures, and entryways.
- D. There must be a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of pedestrian and vehicular traffic.
- E. Mitigation of off-site impacts. Potential off-site impacts from a junkyard or salvage operation on nearby dwelling units, churches, schools, public buildings, public or semipublic places, including parks and recreation areas, shall be effectively mitigated as provided below.
  - (1) A separation distance of at least 300 feet between the site and such uses shall be deemed sufficient isolation distance to mitigate off-site impacts.
  - (2) Where a separation distance of 300 feet is not achievable, any combination of screening, buffering and management and operational procedures which the Planning Commission finds will mitigate such off site impacts to prevent detriment to such uses, may substitute for such separation distance.
- F. The operational areas of the site shall be effectively screened from view from the roadway by vegetation, landscaping or a solid fence. Materials on the site shall not be stacked higher than 50 feet.
- G. Operational plan. The proposed operator shall provide a proposed facility operational plan as part of the special land use application. Such operational plan shall consist of procedures to comply with applicable state and federal statutes and regulations as well as the requirements of this chapter. The Planning Commission shall evaluate the operational plan and may require adjustments in its terms to fulfill the intent of this section. Any special land use approved under this section shall incorporate the terms of the operational plan as a condition of approval. A copy of the operational plan shall be maintained on site available for inspection by Township personnel upon request.
  - (1) Such operational plan shall describe in detail design features, equipment and operational measures to be implemented to control and mitigate the following potential adverse effects of the facility:
    - (a) Litter and accumulation of debris on site.
    - (b) Dust and airborne fumes and odors.
    - (c) Soil and groundwater contamination from motor oil, solvents, lubricants and other hazardous and recyclable fluids on site. The operational plan shall set forth measures to ensure continual compliance with relevant local, county, state and federal laws and regulations.
    - (d) Stormwater runoff.
    - (e) Noise and vibration from equipment, vehicles and operations on site.
    - (f) Glare and light pollution.
  - (2) The operational plan shall provide detail on the management of the facility including hours of operations, personnel safety procedures, procedures to prevent the purchase of stolen materials, after-hours facility security and related matters.

- (3) The operational plan shall include, an emergency preparedness plan which shall be filed with the local emergency services authorities (police and fire) indicating the location, character, and extent of any hazardous or flammable materials, along with their Materials Safety Data Sheets.
- H. No dumping or burning of garbage or trash shall be permitted.
- I. The site shall not create a nuisance adversely affecting adjoining properties.
- J. A junkyard or salvage operation shall be subject to periodic inspection and review by the Zoning Administrator.
- K. The site and operations shall at all times meet all requirements of local, state, and federal law for groundwater protection, stormwater collection and treatment, and collection and disposal of hazardous wastes.

## § 300-18.28. Guesthouse.

A guesthouse may be permitted by special use permit in the AG Agricultural District, the R-1 Low Density Rural Residential District, and the R-4L Lakefront Residential and R-4R Riverfront Residential Districts subject to the following conditions:

- A. A guesthouse shall not be the principal use on the site.
- B. A guesthouse may be located on a lot or parcel in combination with a single-family dwelling, provided that the guesthouse complies with the accessory building location guidelines (see "accessory building") and is a minimum of 30 feet from the principal single-family dwelling.
- C. A guesthouse may only be used for sleeping accommodations. If lavatory facilities are provided, the guesthouse must be heated. Sanitary facilities must meet the requirements of the Berrien County Health Department.
- D. A guesthouse may not exceed 480 square feet in total floor area including loft, nor shall it exceed the height of the principal dwelling.
- E. At no time shall the guesthouse be used as an income producing property.
- F. A guesthouse must remain as an accessory structure and shall not be eligible for consideration as a principal structure on its own lot or parcel.
- G. A guesthouse must be in compliance with the Building Code of the State of Michigan.

## § 300-18.29. Refuse and dumping.

No zoning district in the Township shall be considered an appropriate district for dumping of any kind. No person shall deposit, throw or place any garbage, rubbish or trash in any street, alley or other public place within the Township. No person shall place or keep any garbage, rubbish, or trash upon any private property whether owned by such person or not unless the same is enclosed in a proper receptacle or container as hereinafter provided. No person shall allow any garbage, rubbish, or trash to collect or lie upon any property owned or occupied by him in such a manner that it attracts flies, vermin or rodents, or emits noxious odors, or is unsightly, or may blow or scatter on adjoining lands or otherwise offends the public health, safety, comfort or repose.

## § 300-18.30. Removal and processing of sand, gravel and topsoil.

- A. There shall be no operations involving excavation, removal, deposit or relocation of sand, gravel, topsoil, clay, marl, fill materials and other similar materials that involve an amount in excess of 400 cubic yards per year, except as:
- (1) Relating to excavation for permitted construction that has been approved by the Township through Article **XXIII** of this chapter.
  - (2) Uses accessory or incidental to another lawful use, including parking, landscaping, gardening and similar uses that do not exceed an amount of material to be excavated, removed, deposited, or relocated in excess of 400 cubic yards.
  - (3) Uses accessory or incidental to farming operations.
  - (4) Residential construction and improvements involving a plat duly approved and recorded pursuant to the Land Division Act, Public Act No 288 of 1967 (MCLA § 560.101 et seq.); and
  - (5) Operations necessary by a governmental agency in the construction of highways, sewers, drains and flood control projects.
  - (6) Permitted according to the provisions of this section of this chapter.
- B. Permit required. It shall be unlawful for any person to remove, deposit or relocate any sand, gravel, topsoil, clay, marl, minerals, waste or fill materials, or other similar materials, in or from lands in the Township except as hereinafter provided, without first obtaining a special use permit from the Township.
- C. Permit application. Any person desiring to obtain a special use permit as provided in Article **XXIV** shall first file an application with the Zoning Administrator. Such application shall be addressed to the Township board and shall set forth the following information:
- (1) Maximum amount of material to be moved, removed, deposited or relocated.
  - (2) Type or kind of material to be moved, removed or relocated or used for fill material.
  - (3) Proposed method of removal and equipment intended to be used in the removal.
  - (4) Measures to be taken by the applicant to control noise, vibration, dust and traffic during the operations.
  - (5) A description of any traffic control devices, public facilities or public services that will be required by the proposed operations, an estimate of the costs of the traffic control devices, public facilities, or public services, and the proposed method of funding for the traffic control devices, public facilities or public services.
  - (6) Any measures the applicant proposes to take to ensure public safety, the exclusion of children from the premises, and the lateral support of surrounding land and structures.
  - (7) A phasing plan including the time required for the proposed operations.
  - (8) The application shall document in detail by engineered drawings at a scale of one inch to 100 feet or larger, by contour maps or otherwise, the contour, condition, and use of the land as proposed upon completion of the operations. These plans shall include proposed landscaping, and soil and earth stabilization control to be employed to leave the premises in a fully usable condition for a land use consistent with the Township of Buchanan Master Land Use Plan and to prevent erosion, dust, weeds, and unsightly conditions.
  - (9) A map of the parcel involved showing all buildings, streets, drainage facilities and natural features within 200 feet thereof shall accompany the application.
  - (10) Certification by the Berrien County Road Department, Berrien County Drain Commissioner, Berrien County Health Department, and the Berrien County Soil Conservation Service, and the Michigan Department of Environmental Quality that the proposed use will not severely

- threaten the public safety or property rights of others and that sedimentation control standards of the local, state and federal law will be met.
- D. Permit fee. Each application for a permit required by this section shall be accompanied by a fee in an amount set by resolution of the Township Board from time to time.
- E. Findings of Township Board. No permit shall be issued unless the Township Board, after considering the application and the recommendation of the Planning Commission, if any, and after giving the applicant an opportunity to be heard in person or by counsel, shall find that:
- (1) The proposed operations are not likely to cause any dangerous, unsanitary or unhealthy condition;
  - (2) They will impose no undue financial burden upon the Township;
  - (3) They are not likely to create any public or private nuisance;
  - (4) They are not likely to be conducted in violation of any state law or Township ordinance;
  - (5) There is adequate assurance that the premises will be left in such condition as will prevent soil erosion and sedimentation that will affect adjacent property and of the waters of the State; and
  - (6) After completion of the operations, the land will be reclaimed for a land use compatible with the anticipated future land use of the Township of Buchanan Master Development Plan.
  - (7) As a condition of granting the special use permit, the Township Board may require the applicant to post a financial guarantee to assure that operations will be conducted and the reclamation completed as required in this chapter.
- F. Other considerations. In addition to the matters mentioned in the findings of the Township Board, the Township, in considering the granting of a permit, may hear any other person or consider any other factor that may bear on the public health, safety or general welfare in the particular situation. The effect upon the surrounding property values may be considered as a factor affecting the general welfare, but no permit shall be denied solely because its granting would have an adverse effect upon property values.
- G. Permit revocation. Each permit shall apply only to the lands described in the application and may be revoked if the permit holder operates in any manner inconsistent with the statements in the application or any amendment or fails to comply with any special requirement the Township board may order set forth in the permit to protect the public health, safety and welfare in the special circumstances of the situation, or if it shall at any time appear that any of the findings set forth in this section could not be made if the matter were then before the Township board for decision; however, no permit shall be revoked unless the permit holder is given written notice, mailed or personally served at least five days prior to the date of the meeting at which revocation is considered, and the opportunity is given to the permit holder to be heard in person or by counsel. The notice shall specify the date, time and place of the meeting at which revocation will be considered and inform the permit holder of the reasons why revocation is under consideration and of his right to be heard either in person or by counsel. Revocation of a permit shall not exempt the permit holder from punishment for any violation of this article.
- H. Application. This section shall not apply to normal and necessary excavation or grading done in the connection with construction of roads, farm ponds, farm erosion control projects, normal and acceptable farming procedures, drains, sewers, construction of dwellings and other buildings where a construction permit is granted under other Township ordinances, nor shall it apply in any case where the amount removed from or relocated or deposited on any parcel of land in any one calendar year is less than 500 cubic yards of sand, gravel, clay, marl, minerals, waste and fill materials or other similar materials. However, nothing contained in this article shall in any way permit any kind of mining, mineral removal or relocation or dumping of waste and fill materials in any amount where such use would be apt to interfere with the public health, safety or welfare, or



create a public or private nuisance, or such use would be apt to endanger children or deprive adjoining owners of property of the beneficial use and enjoyment of their lands.<sup>[1]</sup>

[1] *Editor's Note: Original Section 18.30I, Penalty for violation, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

I. Other provisions:

- (1) The change in the natural contour of the land during mining operations and at the cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and all trespassers.
- (2) No business or industrial structures or buildings of a permanent nature shall be erected without prior approval.
- (3) No truck parking or truck storage shall be located within 200 feet of any adjacent residence or within 50 feet of any adjoining property or nearer than a two-foot lateral ratio per one foot of cut.
- (4) A well maintained wire or painted wooden fence shall be erected on any side adjoining a residential property.
- (5) No part of the removal process shall take place closer than 200 feet to the nearest adjacent residence or closer than 50 feet to any street line. Any cut shall not exceed a ratio of one foot of cut per two lateral feet of property in relation to the property line original contour.
- (6) The proposed restoration elevations shall be compatible with surrounding areas and adequate safeguards shall be made to insure proper drainage.
- (7) The property shall be restored by the replacement of topsoil and such soil shall be stabilized by appropriate plantings.
- (8) All truck traffic shall be directed away from residential streets.
- (9) The Planning Commission may recommend, the Township Board may approve a time limit for the removal and processing of sand, gravel and topsoil to occur.
- (10) The Planning Commission may recommend, and the Township Board may approve a performance guarantee to ensure that the site is restored.

## § 300-18.31. Building permit and zoning compliance permit required.

- A. The Michigan Building Code, as amended, shall govern circumstances and standards to require building permits.
- B. Prior to issuance of a building permit, a zoning compliance permit is required from the Zoning Administrator to assure that the proposed building activity is in compliance with the provisions of this chapter.
- C. Application for a building permit or zoning compliance permit must be accompanied by a site plan, specification line drawings, floor plans and other data which the Zoning Administrator/Building Inspector may reasonably require to assure compliance with the provisions of this chapter.
- D. If the proposed excavation, construction, moving, or alteration, or use of land as set forth in the application, and site plan when required, is in conformity with the provisions of this chapter, the Zoning Administrator shall approve a zoning compliance permit. If an application for such permit is not approved the Zoning Administrator shall state in writing on an appropriate denial form the cause for such disapproval.

- E. All structures once commenced shall be fully completed within one year from date of issuance of the building permit. An extension of time may be granted by the Zoning Administrator upon showing of necessity for good cause.

## § 300-18.32. (Reserved)

## § 300-18.33. Single-family dwellings.

A single-family dwelling as defined in this chapter shall meet the following minimum standards:

- A. The dwelling shall comply with the minimum square footage requirements for the zone in which it is located.
- B. The dwelling shall have a minimum width across front, side and rear elevations of 24 feet and comply with the Building Code, including minimum ceiling heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Building Code, the most restrictive standard shall apply. The provisions of this section shall not have the effect of making one family dwellings, which exist as of the effective date of this chapter, nonconforming.
- C. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one-family dwellings.
- D. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- E. A single-family dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined by the Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Construction Board of Appeals within a period of 30 days from the receipt of notice of the Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this chapter as well as the character, design and appearance of residential dwellings located on property within 1,300 feet of the subject site.
- F. The dwelling shall contain no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- G. A single-family dwelling shall have all of the following:
  - (1) A roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling;
  - (2) Not less than two exterior doors with the second one being in either the rear or side of the dwelling;
  - (3) Steps connected to exterior door areas or to porches connected to door areas where a difference in elevation requires the same.
  - (4) A roof pitch of four feet horizontal to one foot (or greater) vertical.

- H. The dwelling complies with all local building, electrical, plumbing, mechanical, and fire codes. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. This section shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or architectural design.
- J. No construction may be commenced until a building permit has been obtained in accordance with the applicable provisions of this chapter and the applicable building code.

### § 300-18.34. Access management.

Except as provided herein, all new parcels of land, land divisions, subdivision lots, or condominium units which front on and take their primary access from, a public roadway shall be entitled to not more than one driveway. The location of said driveway shall be determined by the Berrien County Road Department.

- A. Corner lots. Corner lots as defined herein, may be entitled to not more than one driveway for each road which abuts the parcel, subject to the approval of the Road Department.
- B. Multiple driveways. Subject to Road Department approval, parcels with large frontage on a public road may be entitled to multiple driveways, providing all proposed driveways can meet the following minimum separation requirements pertaining to existing and proposed driveways and public and private roads, both on the site and on adjacent parcels:

<b>Posted Speed Limit of Abutting Roadway (mph)</b>	<b>Minimum Driveway and Intersection Separation (measured center line to center line) (feet)</b>
25	105
30	125
35	150
40	185
45	230
50+	275

- C. Utility and other uses. The requirements of this section shall not apply to a driveway or other access used exclusively to access farmlands or uses at which no one resides or regularly works, such as cellular towers, water wells, pumping stations, utility transformers or similar uses.
- D. All residential, commercial, or industrial parcels fronting on the primary roadways shall meet the minimum access spacing requirements by increasing the frontage of new parcels or providing shared access for multiple parcels that meet the above requirements.
- E. The Planning Commission may consider a modification of the above requirements based upon the inability of a parcel to meet Road Department Rules for sight distance, clear vision area, drainage, and driveway profile. Such requests must be accompanied by documentation sufficient to clearly illustrate and describe how such parcel is unable to meet Road Department Rules, and may, at the discretion of the Planning Commission, be required to include the following:
  - (1) Traffic impact analysis of the proposed development and the proposed traffic access on the affected roadway.
  - (2) Review and concurrence by the Berrien County Road Department or MDOT (as applicable) that the proposed access configuration will result in a greater level of roadway capacity and safety than if the specific requirements of this section were followed.

## § 300-18.35. Keeping, raising, or breeding of animals.

Outside of the AG District small scale livestock operations and keeping of chickens (hens) shall be considered a permitted accessory use, subject to the restrictions of this section. Within the AG District, livestock operations of any scale shall be considered a part of normal farm operations not subject to this section.

### A. Small scale livestock operations.

- (1) Minimum parcel area. A minimum area of five acres comprised of a single parcel or lot, or contiguous parcels under the same ownership, shall be required for any small scale livestock operation, outside of the AG District.
- (2) Number of animals permitted. The number of animals permitted in a small scale livestock operation shall be determined based on the total area of the parcel without regard to the portion of the parcel devoted to keeping livestock.
- (3) Animal units. The maximum number of combined individual animals shall be determined based on equivalent animal units as defined herein, per the following table:

Animal	Number of Animals per Animal Unit
Slaughter or feeder cattle/buffalo	1
Dairy cattle	0.7
Equine, llama/alpaca	1
Swine (over 55 pounds)/ostrich	2.5
Goat/sheep	3
Turkeys	7
Laying hens and broilers	10
Rabbits	10
Other livestock	1,000 divided by the average mature animal weight

- (4) Maximum animals allowed.
  - (a) The following table shall be applied to determine the total combined number of individual animals permitted under this § 300-18.35 as a small scale livestock operation. Determine the parcel area in question and multiply the number of animal units allowed by the number of animals per animal unit from the table above. For the purpose of this section, animals shall not be counted toward animal units until they are weaned in the case of mammals or one month after hatch, in the case of fowl.

Minimum parcel area (in acres)	5	6	7	8	9	10	11	12 or greater
Maximum animal units allowed	3	4	5	6	7	8	9	10

- (b) Manure or animal waste piles shall be kept a minimum of 100 feet from all property lines.

### B. Keeping of chickens (hens) on parcels under five acres. The purpose of this subsection is to provide standards and requirements for the keeping of chickens in residential areas. It is intended to enable residents to keep up to six chickens on a noncommercial basis while limiting and mitigating any potential adverse impacts on surrounding properties and neighborhoods. The keeping of up to four chickens that are utilized exclusively by the person(s) occupying a one-family

dwelling as a locally grown food source for the consumption of eggs or meat is permitted as an accessory use in all districts if all of the following are satisfied:

- (1) Roosters are not permitted.
- (2) Chickens shall be kept only in the rear yard and shall be kept within a coop and attached pen during nondaylight hours. During daylight hours, chickens may be allowed to roam outside of the coop and pen and only within an area completely enclosed by a fence with a minimum height of three feet.
- (3) The coop and pen shall be designed to provide safe and healthy living conditions for chickens while minimizing adverse impacts on other residents and the neighborhood. The coop shall comply with the accessory building setback guidelines as set forth in § 300-18.24.
- (4) All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice or other rodents shall be stored and used so as to prevent infestation by rats, mice or other rodents.
- (5) The outdoor slaughter of chickens is prohibited.
- (6) The keeping of chickens shall not generate excessive noise, odors, dust, fumes, unsanitary conditions or other comparable nuisances.
- (7) All licensing required by the State of Michigan and Berrien County, as well as all other statutes, ordinances and codes shall be satisfied.

## § 300-18.36. Docks, boathouses, and mooring facilities.

### A. General provisions.

- (1) The erection, construction or alteration of any dock, boathouse, or mooring facility shall first require a zoning compliance permit.
- (2) No dock, boathouse, or mooring facility, whether seasonal or permanent, shall:
  - (a) Be built closer to any property line than 10 feet.
  - (b) Have a height greater than five feet from the elevation of the mean water level.
  - (c) Project into the waterway more than 35 feet beyond an elevation which is three feet below the ordinary high-water mark. The Zoning Administrator, Planning Commission or Township Board may require a professional land surveyor licensed in the State of Michigan to certify this elevation.
  - (d) Be so constructed or arranged so as to constitute a hazard to navigation.
  - (e) No dock shall obstruct the navigable waters of the state and all docks shall conform to any applicable requirements of the Michigan Environment, Great Lakes, and Energy Department or any other federal or state requirements.

### B. Private docks. Private docks shall be subject to the following requirements:

- (1) No more than three boats, including personal watercraft, shall be regularly moored at any private dock serving a single parcel.
- (2) Private docks shall not be used for commercial purposes or rented for compensation in any form.
- (3) No private dock shall include T or L diversions that extend more than 10 feet in any direction from the central dock.
- (4) Shared docks shall have a recorded easement and be approved by all owners.

- C. Community docks. Community docks shall be subject to the following requirements:
- (1) No more than 12 boats, including personal watercraft, shall be regularly moored at any community dock serving a single entity or organization.
  - (2) Community docks shall not impede access to nearby docks by way of size, orientation or design.

## § 300-18.37. Spas and wellness centers.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

In the AG, R-1 and R-2 Districts, spas and wellness centers as defined herein, shall be treated as special land uses subject to the provisions of Articles **XXIII** and **XXIV**, and the following provisions.

- A. Management plan. In addition to the site plan and special use submittal requirements an applicant or operator shall provide a detailed management plan for the conduct of the spa and retreat. Said plan shall detail the range of services to be offered, the qualifications, credentials and licensing of key personnel to be on site or on-call, the hours of operation and staff supervision plan. The management plan shall distinguish between the extent of services, therapy or instruction offered to overnight guests and those offered by appointment or to walk-in clients that are not overnight guests. The management plan shall describe in detail any and all licenses and permits required by any legitimate governmental authority pertaining to the facility and the personnel. The management plan shall detail any retail products to be offered on site and outline the hours of operation during which retail sales will be conducted. The Planning Commission or Zoning Administrator may set forth additional informational requirements for the management plan.
- B. Overnight stays. Overnight stays shall not exceed 14 days.
- C. Licenses and permits. As a condition of approval of a special land use for a spa and wellness center, the facility and all personnel shall, at all times, maintain required licenses and permits; including, but not limited to, professional licenses, permits for kitchen facilities, and wastewater discharge permits. The Planning Commission may grant conditional approval to a spa and wellness center pending the issuance of all required licenses, provided that a spa and wellness center shall not commence operation until such required licenses and permits have been issued.
- D. A spa and wellness center shall not be used as a "half-way house" or any adjunct facility associated with the criminal justice, corrections system, juvenile justice or community mental health system.

## § 300-18.38. Accessory uses.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Whenever an activity is conducted in conjunction with another principal use and the former use; 1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or 2) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multifamily development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special land use approval.

## § 300-18.39. Event venues.

[Added 12-3-2020 by Ord. No. 121-2020]

An event venue may be permitted by the Township as a special use in the Agricultural District and Recreational District in accordance with Article **XXIV**. An application for an event venue shall include a site plan in accordance with Article **XXIII**. The application shall include a complete written description of the proposed use, with detail on parking, sanitation, refuse and solid waste management, outdoor lighting, fencing and on-site vehicular and pedestrian circulation, the services to be provided, the maximum number of patrons anticipated on-site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the special use permit application to be relied upon by the Township in granting any approval.

- A. This specific use shall be permitted in the Agricultural and Recreational Zoning Districts with a special land use.
- B. The site shall have a minimum area of five acres identified by a single property (parcel) ID.
- C. An improved parking area, as determined by the Planning Commission, will be required. 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. Any other parking requirements shall be determined by the Planning Commission in accordance with Article **XIX**.
- D. The applicant must demonstrate fire code compliance and receive Fire and Building Department approval.
- E. The applicant must secure all necessary permits from the Berrien County Health Department, Buchanan Township Zoning and Building Departments, Township Fire Department, Berrien County Road Department, as applicable, and must comply with all government regulations.
- F. 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.
- G. 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.
- H. Hours of operation will be determined through the special use standards of § 300-24.07E(5).
- I. All events must be conducted by persons who own the premises, or their designees.

## Article XIX. Parking and Loading Standards

### § 300-19.01. Off-street parking required.

- A. In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this chapter shall be provided as herein prescribed.
- B. Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this chapter for all new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

### § 300-19.02. General requirements.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. Off-street parking spaces for one and two-family dwellings. Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. No parking shall be permitted in the required front yard except on a driveway which leads to an approved parking space.
- B. Off-street parking for multiple-family and nonresidential uses. Off-street parking facilities required for multiple-family and nonresidential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within 300 feet of such building or use. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- C. Existing parking facilities. An area designated as required off-street parking facilities in existence at the effective date of this chapter shall not be reduced below the requirements for the use or building served as set forth in this chapter.
- D. Joint use of facilities. Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.
- E. Non-overlapping operating hours. In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of § 300-19.03.
- F. Unsightly storage prohibited. Trailers, mobile homes, travel trailers, boats, boat trailers, and other like vehicles may not be stored in an unsightly condition.
- G. Commercial vehicles shall not be parked or stored in the residential districts (R-1, R-2, R-3, R-4L, R-4R, R-5).
- H. Duration. Except when land is used as permitted storage space in direct connection with a business, a fourteen-day time limit for parking in nonresidential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- I. Use of loading space. Required loading spaces shall not be counted or used for required parking.
- J. Gross and usable floor area. For the purpose of computing the number of parking spaces required, the definitions for gross and usable floor area in § 300-2.02 shall apply. See definition for "floor area."
- K. Fractional requirements. When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- L. Uses not specified. For those uses not specifically mentioned under § 300-19.03, the requirements for off-street parking facilities shall be in accordance with a use which the Planning Commission considers to be similar in type.
- M. No parking space shall be located in, or encroach upon, any public right-of-way.
- N. Parking requirements for fueling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.
- O. Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this chapter for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating



capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

## § 300-19.03. Table of off-street parking requirements.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

<b>Table of Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Number of Required Parking Spaces</b>
<b>Residential</b>	
One-family and two-family dwelling including mobile homes	2 per dwelling unit
Residential, multiple-family	1 for each efficiency unit, 1 1/2 for each 1 bedroom unit, and 3 for 3 or more bedroom units
Residential, multiple-family and senior citizen housing	1 for each dwelling unit plus 1 for each employee. If units revert to general occupancy, then the requirements for multiple-family residential units above apply
Boarding, rooming, lodging establishments, tourist homes	1 parking space for each occupancy unit plus 1 parking space for each employee on the largest employment shift
<b>Institutional</b>	
Churches, temples or synagogues	1 for each 3 seats, based on maximum seating capacity in the main unit of worship
Hospitals	1 for each patient bed, plus 1 additional space for every worker employed during the 8-hour shift in which the greatest number of employees are on duty
Homes: adult foster care, child-care institution	1 for each 3 beds, plus 1 for each employee on the largest employment shift
Elementary and junior high schools	1 for each teacher, employee or administrator, plus 1 per classroom for visitor use in addition to the requirements for the auditorium, if provided
High schools	1 for each teacher, employee or administrator, 1 for each 10 students, and 1 per classroom for visitor use, in addition to the requirements for the auditorium and stadium, if provided
Private clubs or lodge halls	1 for each 3 persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes
Fraternity or sorority	1 for each 5 permitted active members, plus 1 per employee on the largest employment shift
Boat launch, private or public	6 combined vehicle and boat trailer spaces for each 1 individual boat ramp
Theaters and auditoriums	1 for each 3 seats plus 1 for each 2 employees on the largest employment shift
Libraries, museums, cultural centers or similar facilities	1 for each 400 square feet of gross floor area

<b>Table of Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Number of Required Parking Spaces</b>
Child-care centers, group day-care home	1 for each 350 square feet of usable floor space
<b>Recreational</b>	
For each use below, additional spaces shall also be provided as required for clubhouses, restaurants, bars, pro shops or other affiliated facilities	
Archery facilities	1 for each 2 targets
Softball, baseball fields	25 for each playing field
Bowling establishments	6 for each lane
Dance halls, health spas, pool/billiard halls, skating rinks	1 for each 2 persons who may be admitted at 1 time based on the occupancy load established by local codes, plus 1 for each employee on the largest employment shift
Football and soccer fields	30 for each field
Golf course, public or private	5 for each golf hole, plus 1 for each employee on the largest employment shift
Golf course, miniature	2 for each golf hole, plus 1 for each employee on the largest employment shift
Golf driving range	1 for each tee
Stadium, sports arena, or similar place of outdoor assembly	1 for each 3 seats or 6 feet of benches, plus 1 for each employee on the largest employment shift
Swimming pools	1 for each 4 persons who may be legally admitted at 1 time based on occupancy load established by local codes, plus 1 for each employee on the largest employment shift
Tennis clubs and court-type recreation uses	1 for each person admitted based on the capacity of the courts, plus 1 for each employee on the largest employment shift
<b>Business and Commercial</b>	
Animal hospitals	1 for each 400 square feet of usable floor area, plus 1 for each employee on the largest employment shift
Automobile service stations	2 for each lubrication stall, rack or pit; and 1 for each employee on the largest employment shift
Auto wash, quick oil change facilities	1 for each employee on the largest employment shift; in addition, stacking spaces for automobiles awaiting entrance to the auto wash shall be provided as required by § 300-19.05
Beauty parlor or barber shop	3 spaces for each of the first 2 beauty or barber chairs, and 1 1/2 spaces for each additional chair
Drive-in establishments	1 for each 30 square feet of usable floor area, with a minimum of 25 parking spaces, plus 8 stacking spaces for each drive-in or drive-through transaction station as required by § 300-19.05
Establishments for sale and consumption on the premises of beverages, food or refreshments	1 for each 50 square feet of usable floor area

<b>Table of Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Number of Required Parking Spaces</b>
Furniture/appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair, and other similar uses	1 for each 800 square feet of usable floor area, exclusive of the floor area occupied in processing or manufacturing; for which requirements see "industrial establishments" below 1 additional space shall be provided for each 1 person employed therein the largest employment shift
Ice cream parlors	1 for each 75 square feet of gross floor area, with a minimum of 8 spaces
Laundromats and coin-operated dry cleaners	1 for each 2 washing machines
Mortuary establishments	1 for each 50 square feet of assembly room parlor, and slumber room
Open air business	1 for each 600 square feet of lot area used in open-air business
Restaurant, carry-out	1 for each 100 square feet of gross floor area
Roadside stands	6 for each establishment
Retail stores, except as otherwise specified herein	1 for each 250 square feet of usable floor area
<b>Offices</b>	
Banks, savings and loan offices	1 for each 100 square feet of usable floor area, and 4 stacking spaces for each drive-in or drive-through transaction station as required by § 300-19.05
Business/professional offices	1 for each 200 square feet of usable floor area
Medical or dental clinics	1 for each 100 square feet of usable floor area in waiting rooms and 1 for each examining room, dental chair or similar use area
Offices of local, state, or federal government or nonprofit agencies:	1 for each 200 square feet of usable floor area
<b>Industrial</b>	
Industrial or research establishments	5 plus 1 for every 1 employee on the largest working shift; parking spaces on the site shall be provided for all construction workers during the period of plant construction
Wholesale or warehouse	5 plus 1 for every 1 employee on the largest working shift, or 1 for every 1,700 square feet of gross floor area, whichever is greater; any retail or service area shall be in addition to the above

## § 300-19.04. Barrier-free off-street parking.

Off-street parking facilities as required under this chapter shall include, in accordance with the following table and identified by signs, parking spaces which are barrier-free and designed in accordance with PA 1 of 1966, being MCLA §§ 125.1351 through 125.1356, as amended (Barrier Free Design), and reserved for physically handicapped persons. Signs shall be located approximately six feet above grade according to the accessibility (building) code in effect at time of placement. Each reserved parking space shall be not less than 12 feet wide in accordance with the building accessibility

code in effect at the time the parking lot is configured. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one foot in 12 feet and a width of not less than four feet shall be provided for wheelchair access, in accordance with the provisions of the building code and its referenced accessibility code. Barrier-free parking spaces shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

<b>Barrier-Free Parking Spaces</b>	
<b>Total Parking Spaces Provided</b>	<b>Required Minimum Number of Barrier-Free Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20, plus 1 for each 100 over 1,000

### § 300-19.05. Off-street waiting area and stacking spaces for drive-through facilities.

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four off-street stacking spaces for each service window or transaction station. Eight off-street stacking spaces shall be provided for each drive-through transaction station of a restaurant.
- B. Self-service motor vehicle car wash establishments shall provide three off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service shall provide stacking spaces equal in number to three times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet. A drying lane 50 feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
- C. An off-street waiting space is defined as an area 10 feet wide by 20 feet long.

### § 300-19.06. Off-street parking lot layout, construction and maintenance.

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. Review and approval requirements.

- (1) In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Article **XXIII**. Any construction of a new parking lot, paving of an unpaved parking lot, or expansion of an existing parking lot requires site plan review. Projects of less than 10% of the area of an existing development, or of 1,000 square feet or less, may, at the discretion of the Zoning Administrator, only be subject to the requirements for minor site plan under Article **XXIII**.
- (2) Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a certificate of occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

B. Layout requirements. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking	Maneuvering	Parking Space (width)	Parking Space (length)
0° (parallel parking)	12 feet	8 feet	23 feet
30° to 50°	12 feet	8 feet 6 inches	20 feet
54° to 74°	15 feet	8 feet 6 inches	20 feet
75° to 90°	20 feet	9 feet	20 feet

- (1) Access. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.
- (2) Ingress and egress. Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a nonresidential district or from a nonresidential use shall be nearer than 20 feet to any residentially zoned district.
- (3) Surfacing and drainage. The entire parking area, including parking spaces and maneuvering lanes, shall be graded and drained so as to dispose of surface water which might accumulate on such area in a manner which does not deposit silt elsewhere. No surface water from such parking area shall be permitted to drain onto adjoining private property or across a public sidewalk.
- (4) Bumper stops. Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.
- (5) In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above shall be installed.
- (6) Striping. For paved or concrete surfaces all spaces shall be outlined with three-inch stripes of paint, the color of which contrasts with the parking lot surface.
- (7) Screening. All off-street parking areas, except those serving single- and two-family residences, shall be screened in accordance with the provisions set forth as required by Planning Commission.
- (8) Parking setbacks. All parking setbacks, as required elsewhere by this chapter, shall be maintained.
- (9) Landscaping. Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns,

- deciduous shrubs, evergreen plant material, and ornamental trees in accordance with Article **XX** of this chapter. All such landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance. All landscaping shall be protected by concrete, asphalt curbing or bumper stops.
- (10) Lighting. All lighting used to illuminate any off-street area shall not exceed 20 feet in height above the parking surface grade and shall be directed or shielded so as to not shine onto any adjacent properties or public rights-of-way.
- (11) Signs. Accessory directional signs shall be permitted in parking areas in accordance with the provisions of Article **XXI**.
- (12) Buildings. No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than 50 square feet in area and not more than 15 feet in height.
- (13) Additional requirements. In addition to the above requirements, parking areas shall comply with additional requirements or conditions, which may be deemed necessary by the Planning Commission for the protection of abutting properties.
- C. Delay in construction. In instances where the Building Inspector determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather. But the Township shall require a cash or surety bond in the anticipated amount of the parking lot construction costs payable by the applicant and held by the Township in a non-interest bearing account until such time as the parking lot construction is completed, or a period of six months, whichever is less.

## § 300-19.07. Off-street loading space requirements.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including, but not limited to, department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry-cleaning establishments, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site.

A. Such spaces shall be provided as follows:

- (1) All loading spaces shall be located in the nonrequired rear yard and meet all minimum yard setback requirements.
- (2) Loading space areas shall be provided with a pavement having an asphaltic, slag or crushed stone, or Portland cement binder so as to provide a permanent, durable and dustless surface.
- (3) All loading spaces shall have a minimum of fourteen-foot high clearance.
- (4) Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- (5) No loading space shall be located closer than 50 feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six feet in height.
- (6) Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots, provided that all of the following conditions are fulfilled:
  - (a) Each business served shall have direct access to the central loading area without crossing streets or alleys.

- (b) Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
  - (c) No building served shall be more than 500 feet from the central loading area.
- (7) The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

## § 300-19.08. Permitted reductions in required parking and loading spaces.

- A. Upon request at the time of site plan review, the applicant may seek the reduction in required parking stalls as otherwise outlined by this chapter.
- B. In an effort to minimize stormwater runoff, reduce the area of impervious surfaces, eliminate unused parking spaces, reduce excessively large parking lots, and generally reduce the appearance of a "sea of asphalt," prevalent among commercial and industrial developments, the Planning Commission may waive up to 30% of the required number of parking stalls upon written presentation and justification by the applicant. The allowance in the reduction of the number of required parking stalls shall be directly proportional to an increase in open space and landscaping improvements.
- C. The allowance for a reduction in parking stalls shall not be utilized to otherwise increase the size of the requested building. The applicant must show that they could locate and accommodate the required number of parking stalls and are only requesting approval to not construct 30% of the required stalls. Verification of a waiver by the Planning Commission shall be recorded in the minutes of the meeting at which it was approved and placed as a condition upon approval of the applicant's site plan.

## Article XX. Landscaping Standards

### § 300-20.01. Description and purpose.

- A. The intent of this article is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of sites, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character in the Township.
- B. The standards of this article are also intended to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, assist in directing safe and efficient traffic flows at driveways and within parking areas, and minimize negative impacts of stormwater runoff.
- C. The landscape standards of this article are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property. Pursuant to Article **XXIII**, Site Plan Review and Approval Procedures, the Planning Commission may require additional landscaping beyond these minimum requirements when deemed necessary due to the scope and nature of the proposed development.

### § 300-20.02. Requirements and timing of landscaping.

- A. Plan required. Landscaping shall be included with all nonresidential (parking lots, commercial, office, and industrial developments), multiple-family (three or more units) developments, and manufactured housing park development plan applications reviewed by the Township. A separate landscaping plan shall be submitted at a minimum scale of one inch equals 50 feet. The landscape plan shall clearly describe the location, type, size, and spacing of all plant materials. It shall also include planting details and specifications, clearly describing planting technique, material installation, planting mixtures, mulch, material depth, seed blends, and other necessary information. Individual single-family and two-family dwellings, and agricultural uses are not subject to the provisions of this section.
- B. Installation and inspection.
- (1) Wherever this chapter requires landscaping or plant materials, it shall be planted within six months from the date of issuance of a completion certificate and shall thereafter be reasonably maintained with permanent plant materials which may be supplemented with other plantings. The Planning Commission may require a performance guarantee, in accordance with the provisions of § 300-24.02, to cover the costs of landscaping prior to the issuance of a certificate of occupancy.
  - (2) Landscaping shall be installed according to generally accepted planting procedures with the quality of plant materials as hereinafter described and shall be protected from vehicular encroachment and snow removal operations.
  - (3) In the event a performance guarantee is being held, the Zoning Administrator will, within 30 days of receiving written notification of installation, conduct an inspection to verify said installation and authorize release of the guarantee.
- C. Plant material standards. It is the intent of this section that a diverse mixture of plantings be provided. Therefore, all required landscaping shall comply with the following minimum plant material standards, unless otherwise specified within this section. These standards may be varied by the Planning Commission where the established minimums, in the judgment of the Commission, will not serve the purpose and intent of this section.
- (1) Plant quality. Plant materials permitted in required landscaped areas shall be hardy to the climate of Michigan, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.
  - (2) Plant size specifications.
    - (a) Trees. Required trees shall be of the following sizes at the time of planting, unless otherwise stated in this section.
      - [1] Deciduous trees. Two-and-one-half-inch caliper minimum trunk measurement at four feet off the ground, with a minimum eight feet in height above grade when planted.
      - [2] Evergreen trees. Six feet in height, with a minimum spread of three feet and the size of the burlapped root ball shall be at least 10 times the caliper of the tree measured six inches above the grade.
      - [3] Deciduous ornamental trees. One-inch caliper minimum at three feet off the ground, with a minimum height of six feet above grade when planted.
    - (b) Shrubs. Minimum 24 inches in height above planting grade.
    - (c) Hedges. Planted in such a manner as to form a continuous unbroken visual screen within two years after planting.
    - (d) Vines. Minimum of 30 inches in length after one growing season.
    - (e) Ground cover. Planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season. Ground covers shall be planted in such a manner so as to present a finished appearance and reasonably



complete coverage after one complete growing season, at a rate of at least three plants per square foot.

- (f) Grass. Planted in species normally grown as permanent lawns in the south-central Michigan area. Grass may be plugged, sprigged, seeded, or sodded, except that rolled sod, erosion reducing net, or other suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and disease.
- (g) Mulch material. Minimum of four inches deep for planted trees, shrubs, and vines, and shall be installed in a manner as to present a finished appearance.
- (h) No plant materials used to satisfy these standards shall be composed of nonliving materials, such as plastic plants.
- (i) All plant materials shall be well-formed, sound, vigorous, healthy and free from disease, sun scald, wind burn, abrasion, and harmful insects at the time of planting.
- (j) The following plant materials are not permitted for planting (in a public right-of-way or as required by the minimum landscaping standards of this chapter) due to their tendency and susceptibility to storm damage, their roots are known to clog drains and sewers, they are known to be susceptible to disease or insect pests, or other undesirable characteristics such as being an exotic invasive species: Silver Maple, Box Elder, Honey Locust (thorned), Ginko (female), Mulberry, Black Locust, Willow, Siberian Elm, Slippery Elm (Red Elm) and Chinese Elm, Horse Chestnut, Poplar, Ailanthus, Catalpa, Osage orange, Cottonwood, European Barberry, purple loosestrife, and Russian olive.

## § 300-20.03. Special provisions for existing sites.

- A. Special provision is made for applying these standards to developed sites which existed prior to the effective date of this chapter. Therefore, when an existing site is undergoing improvement, a change in use, or expansion that requires the submission of a development plan, the objective of these standards is to gradually bring the existing site into compliance with the minimum standards of this section in relation to the extent or change on a site.
- B. When reviewing plans for a change in use or expansion which requires development plan review, the Zoning Administrator or body reviewing the plan, shall require an upgrade in landscaping, using the following as guidelines:
  - (1) General requirements. Each building expansion requiring development plan review shall provide at least 10% of the landscaping requirements for a new development for every 10% of expansion.
  - (2) Street and parking lot requirements. Each building expansion requiring development plan review should provide landscaping along public streets and within parking areas, with landscaping along public streets as the priority. Where parking lot landscaping cannot be reasonably provided, additional landscaping along the street or in any required buffer areas should be considered.

## § 300-20.04. Parking lot landscaping.

Within every parking area containing 10 or more proposed spaces, at least one deciduous tree and ornamental tree with at least 100 square feet of planting area shall be used for every 10 parking spaces, in addition to any other landscaping requirements. This landscaping shall meet the following standards:

- A. Landscaping shall be dispersed within the paved parking area in order to break up large expanses of pavement and help direct smooth traffic flow within the lot.
- B. Landscaping shall be planned and installed so that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, nor interfere with adequate motorist sight distance.
- C. Dimensions of separate landscaped areas within the interior of or adjacent to parking areas shall be shown on the development plan. Minimum width of such areas shall be 10 feet and such areas shall be curbed to protect the tree planting area.

## § 300-20.05. Waste receptacle and mechanical equipment screening.

Waste receptacles shall be located and screened in accordance with the standards of this chapter, including those standards identified in Article **XXIII**, Site Plan Review and Approval Procedures. Ground-mounted mechanical equipment shall be screened with plant materials or a wall when visible from a public-right-of-way or parking area.

## § 300-20.06. General layout and design standards.

- A. Plant health and maintenance. Landscaped areas and plant materials required by this chapter shall be kept free from refuse and debris. Plant materials, including lawn areas, shall be maintained in a healthy and growing condition, neat and orderly in appearance. If any plant material required by this chapter dies or becomes diseased, it shall be replaced within 30 days' of written notice from the Zoning Administrator, or within an extended time period as specified in said notice.
- B. Removal of support material. Tree stakes, guy wires, and tree wrap are to be removed after one year.
- C. Irrigation. All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued maintenance.
- D. Visibility. Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants, and shall not interfere with or obstruct the view of public views and sight lines from rights-of-way and public property to streams, lakes, and other waterways.
- E. Species tolerance. Site entrances shall be landscaped with species tolerant of roadside conditions common to the area.
- F. Public safety. Plantings within 10 feet of a fire hydrant shall be no taller than 12 inches at maturity.

## § 300-20.07. Incentives to preserve existing trees.

- A. The Township of Buchanan encourages the preservation of quality and mature trees by providing credits toward the required trees for greenbelts, buffer strips, interior landscaping, and within parking lots. Trees intended to be preserved shall be indicated with a special symbol on the development plan and be protected during construction through the use of a fence around the drip line. Tree species, location, and caliper must be shown on the landscape plan. Tree protection measures must be shown and noted on the landscape plan.
- B. To obtain credit, the preserved trees shall be of a high quality and at least 2 1/2 inches caliper. Trees to be preserved shall be counted for credit only if they are located on the developed portion

of the site as determined by the Planning Commission. Any tree over 12 inches in caliper to be removed shall be noted on the landscape plan. The credit for preserved trees shall be as follows:

Caliper of Preserved Tree (in inches)	Number of Trees Credited
Over 12	3
8 to 12	2
2 1/2 to 8	1

Note: Caliper measurements for existing trees is the diameter at a height of 4 1/2 feet above the natural grade.

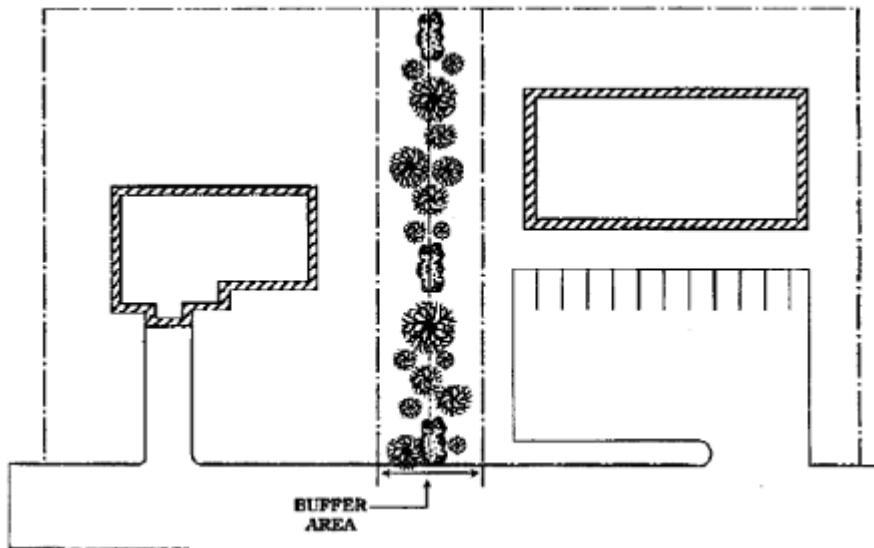
- C. Any preserved trees receiving credit which are lost within two years after construction shall be replaced by the landowner with trees otherwise required by this chapter. A credit may be given for up to 50% of the required landscaping for existing trees.

### § 300-20.08. Walls and buffer strips between uses.

In those instances where the following conditions occur, the need for a wall, a berm, or similar type of landscaped buffer strip shall be determined by the Planning Commission.

- A. Zoning districts and land uses.
  - (1) For developments within the CS Commercial/Service and IND Industrial Zoning Districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a masonry wall or wooden privacy fence six feet in height or a totally obscuring greenbelt, berm, or a buffer strip sufficient to provide adequate screening between uses for the purpose of protecting the integrity of the residential land use and property.
  - (2) For nonresidential land uses within residential zoning districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, an obscuring wall six feet in height, decorative wooden privacy fencing, a greenbelt, a berm, or a buffer strip.
- B. Location. Required walls, greenbelts, berms, or buffer strips shall begin on or at the property line, except where underground utilities interfere.

#### Buffer Area



- C. **Materials.** Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided for in this chapter and except such openings as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Planning Commission to be durable, weather-resistant, rustproof, and easily maintained. Materials for walls shall be compatible with surrounding building materials. Materials for the greenbelts, berms, or buffer strips shall be in accordance with the standards identified in this article unless specified elsewhere.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- D. **Alternatives.** The Planning Commission may approve a landscaped berm as an alternative to a wall upon finding the landscaped berm will provide a similar screening effect.

## § 300-20.09. Waiver or modification of standards for special situations.

The Planning Commission may determine existing landscaping or screening intended to be preserved, or accept a different landscape design that would provide all or part of the required landscaping and screening. In making such a determination to waive or reduce the landscape and screening requirements of this section, the following may be considered:

- A. The extent that existing natural vegetation provides desired screening.
- B. If there is a steep change in topography which would limit the benefits of required landscaping.
- C. The presence of existing wetlands.
- D. Existing and proposed building placement.
- E. Abutting or adjacent land is developed or planned by the Township for a use other than residential.
- F. Building heights and views.
- G. Similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

## Article XXI. Signage

### § 300-21.01. Purpose.

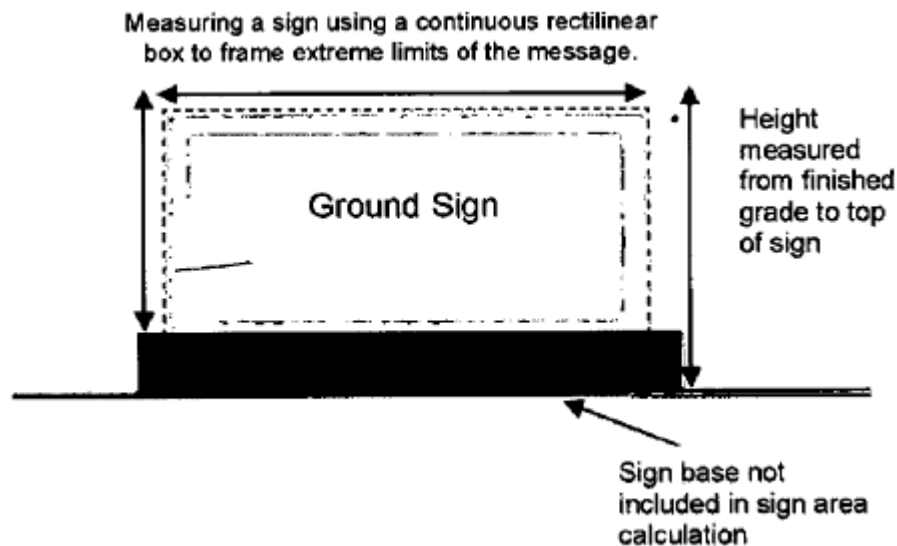
The purpose of this article is to regulate the size, number, location and manner of construction and display of signs in the Township of Buchanan. This article is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect appropriately identified uses from excessive signage, provide ability for the public to identify premises and establishments and enhance the aesthetics of the community.

### § 300-21.02. General provisions for all signs.

All signs shall meet the following standards:

- A. All signs shall conform to all applicable codes and ordinances of the Township of Buchanan and shall be approved by the Building Inspector or Zoning Administrator and a permit issued under § 300-21.06.
- B. **Sign area.** The area of a sign shall be measured within a single, continuous rectilinear perimeter composed of straight lines which encloses the extreme limits of the advertising message, together

with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces and/or uprights of the sign. When two sign faces are placed back-to-back so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 24 inches apart at any point, the sign area shall be computed by the measurements of one of the faces.



- C. Height. Sign height shall be measured as the vertical dimension from the finished grade to the highest point of the highest attached component of the sign. A sign shall not extend beyond the edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.
- D. Sign setbacks. All signs shall be set back a minimum of 1/2 of the minimum front yard setback. All signs shall be set back a minimum of 10 feet from any other property line. In addition, no sign shall be located where, in the opinion of the Zoning Administrator, it will obstruct clear vision and 20 feet from the road edge.
- E. Illumination. When illumination of signs is permitted, illumination shall comply with the following requirements:
- (1) Illumination shall be by steady, stationary, shielded light sources directed solely at the sign, or internal to it.
  - (2) Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or roads.
  - (3) Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited. Illumination shall not be installed or designed to be confused with, or appear similar to, a highway sign or traffic safety device.
  - (4) There shall be no strobing, oscillating or intermittent sign. All illuminated signs shall be designed and located to prevent the light therefrom being cast upon adjoining residences.
- F. Maintenance. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the Building Inspector or Zoning Administrator or other designated representative. A sign which no longer serves the purpose for which it is intended or is abandoned or is not maintained in accordance with applicable regulations of the Township of Buchanan shall be removed by the owner, or by the Township at the expense of such owner, upon written notice by the Township of Buchanan.
- G. Where a proposed sign appears to meet the definition of more than one sign, the most restrictive requirements and limitations of the defined sign types shall apply.

- H. Wall signs. Wall signs shall not extend further than 12 inches from the face of the wall to which it is attached. The maximum width of a wall sign shall not exceed 90% of the width of the wall to which the sign is attached.
- I. Where a projecting sign, awning or canopy sign or suspended sign protrudes over any public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least nine feet from the sidewalk.
- J. Signs for approved home occupations shall be subject to § 300-21.05.  
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- K. Electronic message boards. Electronic message boards are permitted in accordance with the following standards:
  - (1) An electronic message board shall be located on the same parcel as the principal use.
  - (2) An electronic message board shall be permitted in the Commercial/Service, Industrial or Municipal Districts only. Electronic message boards are also permitted in any district for churches, schools and municipal/governmental buildings.
  - (3) The intensity and contrast of light levels on the electronic message board shall remain constant throughout the sign face. An electronic message board shall use automatic day/night dimming software to reduce the illumination intensity of the sign at night.
  - (4) A photometric plan shall be submitted to the Zoning Administrator prior to the placement of an electronic message board.
  - (5) All electronic message boards shall meet the following requirements:
    - (a) The message shall change no more frequently than every five seconds.
    - (b) The brightness of an electronic message board, measured at the property line, shall not exceed 0.3 footcandle.
    - (c) It shall be the responsibility of the owner on whose property the sign is located to present to the Township Zoning Administrator documentation that the brightness of the electronic message board is compliant with this chapter within 10 days of installation.

## § 300-21.03. Exempt signs.

The following signs shall be exempt from regulations in this article:

- A. Any public notice, traffic control or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- B. Property address and owner identification up to three square feet in area.
- C. Any sign wholly located within a building and not visible from outside the building. This does not include window signs.
- D. Holiday lights and decorations.  
[Amended 12-19-2019 by Ord. No. 118-2019]
- E. Works of art.  
[Amended 12-19-2019 by Ord. No. 118-2019]
- F. Directional signs including stop, yield, one-way, and similar signs, provided the following standards are met:  
[Amended 12-19-2019 by Ord. No. 118-2019]
  - (1) Directional signs shall not exceed six square feet in area or six feet in height.

- (2) The number of directional signs permitted on a property shall be the minimum necessary to provide adequate orientation, as determined by the applicable the Township of Buchanan representative or board or commission.
- G. Flags up to 24 square feet in area.  
[Amended 12-19-2019 by Ord. No. 118-2019]
- H. All yard signs, as defined herein, provided such yard signs shall be limited to one sign per frontage, not greater than 12 square feet in area. If the subject lot or parcel has more than 100 feet of frontage, one additional sign shall be permitted per frontage.  
[Amended 12-19-2019 by Ord. No. 118-2019]
- I. One temporary sign or portable sign, limited to a maximum of 15 days, provided that the sign shall not exceed 32 square feet in sign area per frontage and not exceed six feet in height.  
[Amended 12-19-2019 by Ord. No. 118-2019]
- J. Special event signage on public property.
- K. All yard signs, as defined herein, provided such yard signs shall be limited to one sign per frontage, not greater than 12 square feet in area. If the subject lot or parcel has more than 100 feet of frontage, one additional sign shall be permitted per frontage. Such signs shall be removed after seven days from which the event occurs.
- L. Flags or insignia of any nation, state, local government, community organization, education institution.
- M. Farm crop hybrid signs.
- N. One temporary sign or portable sign for the promotion of special event activities by churches, nonprofit or educational institutions, provided that the sign is displayed no more than two weeks prior to the event or activities and that it must be removed within two days of the conclusion of the event or activity provided that the sign shall not exceed 32 square feet in sign area per frontage. Such signage shall not exceed six feet in height.
- O. Land and building For Sale or For Lease signs, provided such signs do not exceed six square feet in area in the AG, R-1, R-2, R-3, R-4L, R-4R, R-5 and RE Districts or 20 square feet in the CS and IND Districts.

## § 300-21.04. Prohibited signs.

[Amended 12-19-2019 by Ord. No. 118-2019]

The following signs shall not be allowed in any district:

- A. Signs which are illegal under state laws or regulations and applicable local ordinances or regulations, and which are not consistent with the standards in this chapter.
- B. Signs affixed to public utility poles within the right-of-way, which are not public notices, or traffic control or warnings required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- C. Animated or moving signs, as defined herein.
- D. Signs that are not clean and in good repair and signs that are out of compliance with applicable building and electrical codes.
- E. Signs not securely affixed to a supporting structure.
- F. Signs that are not official traffic signs which interfere with any official traffic sign, signal, or device and which may obstruct a motorist's vision.
- G. Pole signs, bench signs and roof signs, as defined herein.

- H. No sign shall be painted on or be attached to a motor vehicle used primarily for the display of such sign, including, but not limited to, a billboard truck.

## § 300-21.05. Permitted signs.

[Amended 12-19-2019 by Ord. No. 118-2019]

In addition to the above standards, the following signs are permitted in the applicable zoning districts.

- A. The following uses in the following districts may be permitted signage in accordance with the following:

- (1) AG District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel*	20	No

\* If the subject lot or parcel has more than 100 feet per frontage, one additional ground sign may be permitted.

- (2) R-1 District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	12	No

- (3) R-2 District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	12	No

- (4) R-3 District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	12	No

- (5) R-4L and R-4R Districts:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	12	No

- (6) R-5 District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	12	No

- (7) RE District:



Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel*	20	No

\* If the subject lot or parcel has more than 100 feet per frontage, one additional ground sign may be permitted.

(8) MU District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Any	1 per parcel	32	Yes, subject to § 300-21.02E

(9) CS District:

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	32	Yes, subject to § 300-21.02E
or Projecting	1 per building entrance	12; the sign shall not project more than 4 feet from the building wall	Yes, subject to § 300-21.02E
or Suspended	1 per building entrance	12	No
Wall	1 per road frontage	10% of wall surface area, but no more than 32	Yes, subject to § 300-21.02E
or Awning or Canopy	1 per road frontage	10% of wall surface area, but no more than 32	Yes, subject to § 300-21.02E
Window	1 per road frontage	4	No

(10) IND and RS Districts. All permitted and special land uses except accessory structures and single-family dwellings:

[Amended 2-20-2020 by Ord. No. 119-2020]

Type	Maximum Number	Maximum Sign Area (square feet)	Illumination Permitted
Ground	1 per parcel	32	Yes, subject to § 300-21.02E

### § 300-21.06. Permit process.

- A. A sign 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 shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.
- B. An application for 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:

- (1) Name, address, date, and telephone number of the applicant and the person, firm or corporation erecting the sign.
  - (2) Address and permanent parcel number of the property where the sign will be located.
  - (3) 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 the buildings and structures, together with the depth of the setback from the lot lines.
  - (4) A scaled print or drawing of the plans and specifications for the sign (area, height, lighting, etc.) and information on the method of construction and attachment to structure or the ground.
  - (5) Any required electrical permit or building permit.
  - (6) 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 chapter.
- C. All signs requiring electrical service shall be reviewed for compliance with the electrical code applicable in the Township.
- D. The Zoning Administrator shall issue a sign permit if all provisions of this article and other provisions of this chapter and other applicable ordinances are satisfied. A sign authorized by the permit shall be installed or shall be under construction within six 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.

## Article XXII. Performance Guarantees

### § 300-22.01. Purpose.

To ensure compliance with the provisions of this chapter and any conditions imposed thereunder, the Township Board may require that a performance guarantee be deposited with the Township to ensure the faithful completion of improvements, in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of 2006, MCLA § 25.3101 et seq., as amended. Improvements for which the Township may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, surfacing of drives, parking, and acceleration/deceleration lanes, traffic control devices, sewer or water line expansion, stormwater retention areas and land reclamation activities.

### § 300-22.02. Scope of requirement.

The performance guarantee can apply only to those specific features and actions which the Township Board considers necessary to protect natural resources or the health, safety, or welfare of residents, project users, or the general public. A performance guarantee may not be required for the entire project. The guarantee is limited to those project components specifically designated by the Township Board.

### § 300-22.03. General requirements.

The Township Board may require a performance guarantee on any other specific improvement when determined by resolution that the guarantee is necessary to protect the natural resources of the Township or the health, safety, or welfare of residents, project users, or the general public. A performance guarantee shall be required by the Township Board on the applicable portion(s) of a site plan under any of the following circumstances:

- A. To meet the costs of improvements required to be made by the applicant to public facilities owned by the Township as a condition of site plan approval.
- B. To ensure the completion of the common elements of the site plan affecting two or more parties.
- C. To ensure the completion of those portions of a site plan that will not be completed by the applicant prior to a request for occupancy.

## § 300-22.04. General conditions.

The performance guarantee shall be submitted under these general conditions:

- A. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. No building permit or related Township permit shall be issued unless the Zoning Administrator is satisfied that the guarantee is in full compliance with this chapter.
- B. The performance guarantee shall be in the form of:
  - (1) A cash deposit or deposit by certified check drawn on a bank authorized to do business in the State of Michigan; or
  - (2) An irrevocable letter of credit issued on behalf of the Township by a bank authorized to do business in the State of Michigan; or
  - (3) A surety bond in a form and manner acceptable to the Township Attorney. The costs of the review of a surety bond by the Township Attorney shall be paid by the applicant as part of the issuance of a permit.
- C. The amount of the performance guarantee shall be sufficient to cover the estimated costs of the improvements associated with a project for which site plan approval or zoning variance has been obtained. Accordingly, the applicant shall provide an itemized listing of estimated costs and a proposed time schedule to complete all of the improvements determined to require a performance guarantee. The Zoning Administrator or Township Engineer shall review the submitted costs for reasonableness and shall determine an accurate amount for the performance guarantee. In determining the amount, the Zoning Administrator may consider signed contracts or subcontracts supplied by the applicant or the Zoning Administrator may secure or require that the applicant secure a sealed statement from a licensed architect or engineer verifying the estimates.
- D. Cash funds or a certified check made payable to the Township shall be deposited by the Township into an account in a financial institution with which the Township regularly conducts business.
- E. In the case of a guarantee exceeding \$2,000, and by request of the applicant, the guarantee may be released to the applicant in an amount proportional to the work completed on various elements, provided that a minimum of 10% shall be retained on each element until the satisfactory completion of the entire project. The amount of work completed shall be based upon an inspection and determination by the Zoning Administrator and or Township Engineer.
- F. An amount not to exceed the actual cost of the installation of landscape materials may be retained by the Township for at least one year following the installation of said materials to insure proper maintenance and, if necessary, replacement. This amount shall be released to the applicant upon certification by the Zoning Administrator that all landscape materials are being maintained in good condition.
- G. The unexpended balance of a performance guarantee shall be returned to the applicant following inspections by the appropriate Township officials and a positive determination by the Zoning Administrator and or Township Engineer that the required improvements have been satisfactorily completed and that all other requirements of this chapter are met.

## § 300-22.05. Unsatisfactory completion of improvements.

Unsatisfactory completion of improvements include:

- A. When required improvements are not installed or maintained within the time stipulated or are not completed in accordance with the standards set forth within this chapter or as agreed upon between the applicant and the Township Board, the Township Board may order the improvements completed by the Township or by an independent contractor, or may order that the site be returned to its original condition.
- B. The Zoning Administrator shall order the completion of the improvements and so notify the applicant by certified mail at least 30 calendar days prior to the undertaking of completion. During this time period, the applicant may seek an order from a court of competent jurisdiction to prevent the action by the Township.
- C. All costs incurred by the Township for the completion of the improvements or the restoration of the site, including direct administrative costs, shall be assessed against the performance guarantee.

## Article XXIIA. Private Roads and Shared Driveways

[Added 10-17-2019 by Ord. No. 117-2019]

### § 300-22A.01. Purpose and applicability.

- A. The purpose of this article is to regulate the construction, maintenance and use of new and existing private roads within the Township, to provide procedures for review and appeal, and to promote and protect the public health, safety and welfare. It is further the purpose of this article to encourage property owners to make use of private roads to prevent additional curb cuts on public roads, and to ensure that private roads are maintained by the private property owners who own and use the road.
- B. The provisions of this article shall apply to the creation, construction, improvement and maintenance of shared driveways and private roads.

### § 300-22A.02. Definitions.

In addition to the definitions in Article II of this chapter, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **APPLICANT**

A person who holds a legal interest in land and who submits an application seeking approval for a private road or shared driveway on the land.

#### **CLASS A PRIVATE ROAD**

A private road designed to serve seven or more single-family residential lots, or has the potential to be extended to serve a total of seven or more single-family residential lots, or designed to serve four two-family residential lots, or any combination of two-family residential lots with single-family lots that total seven or more units. The road may also serve two or more nonresidential uses, or any combination of residential and nonresidential uses, not including agricultural uses and farm buildings.

#### **CLASS B PRIVATE ROAD**

A private road designed to serve four to six single-family residential lots or designed to serve two or three two-family residential lots or any combination of two-family residential lots and single-family residential lots that total between four and six family units.

**IMPROVED**

Improvement of the road surface with gravel aggregate or a hard surface, such as concrete or asphalt.

**PERFORMANCE GUARANTEE**

Includes cash, irrevocable letter of credit issued, or surety bond. The irrevocable letter of credit or surety bond should be written/issued by a licensed bank or insurance company in Michigan and should be approved by the Township Attorney.

**RECORDABLE FORM**

For purposes of this article, this term shall apply to an easement statement and easement maintenance agreement(s) which are legally binding and which are written in a form so as to be recordable with the Berrien County Register of Deeds.

**SHARED DRIVEWAY**

A driveway designed to serve two or three single-family residential lots or any combination of two-family residential lots and single-family residential lots that total three or fewer family units.

**TOWNSHIP BOARD**

Buchanan Township Board of Trustees.

## § 300-22A.03. General requirements.

- A. No zoning compliance permit shall be issued by the Township, or official of the Township, unless the structure, building or improvement for which a zoning compliance permit is required is on a lot or parcel of land which meets the minimum lot width for the district in which it is located. All lots must abut on a public road, private road or shared driveway easement for an uninterrupted distance equal to the minimum lot width specified for the district in which it is located.
- B. Land located within a private road or shared driveway easement shall not be counted in determining compliance with lot area and lot width requirements.
- C. Conveyance of interest in land abutting a private road. Whenever an owner of land in the Township sells or otherwise grants an interest in land that fronts on or is served by a private road, or accepts any offer to purchase an interest in the land, the owner shall provide notice, in recordable form, to the purchaser that the land abuts a private road. This notice shall:
  - (1) Explain the maintenance, care, and other responsibilities concerning the private road.
  - (2) Explain that the maintenance, care, and other responsibilities concerning the private road shall not be the responsibility of the Township, Berrien County Road Department, State of Michigan, or any other governmental entity.
  - (3) Explain that the purchaser shall assume all responsibilities immediately upon purchase of the land that fronts on or is served by a private road.
  - (4) A copy of this notice shall be supplied to the Township Assessor upon transfer of the property deed.

## § 300-22A.04. Application requirements.

- A. No construction shall begin on any shared driveway or private road until a permit has been issued, on forms provided for that purpose by Buchanan Township, and following compliance with the requirements as set forth in this chapter. This requirement applies to all new construction, extensions or improvements of a private road or shared driveway.

- B. Shared driveway. A shared driveway may be approved by the Zoning Administrator upon review of an application accompanied by the following:
- (1) A plan showing all lots to be served, the location and width of the shared driveway easement, the width of the proposed improved surface, the materials to be used for the improved surface, the frontage of all lots served by the shared driveway, and any drainage or utility structures to be located in the easement.
  - (2) Easements and easement maintenance agreements for the shared driveway, as required by § 300-22A.09 of this article. The Zoning Administrator may forward these documents for review by the Township Board prior to approval of the shared driveway.
  - (3) If the shared driveway intersects a public road or state trunk highway, permits from the Berrien County Road Department shall be submitted. If the shared driveway intersects an existing private road, written permission from the owners, association or authority that owns the private road shall be submitted.
- C. Private road. A private road may be approved by the Township Board, after recommendation from the Planning Commission. Two copies and a digital copy of an application for a permit shall be delivered to the Zoning Administrator and filed with the Township Clerk at least 30 days before the Planning Commission meeting at which the proposal is proposed to be reviewed. No application shall be accepted until all of the following information is supplied, unless waived by the Zoning Administrator:
- (1) A completed application, on a form supplied by the Township.
  - (2) All fees required by the Township, as determined by the Township Board.
  - (3) A set of completed plans, prepared and sealed by a civil engineer registered in the State of Michigan, which includes all required information. The Zoning Administrator may waive the requirement of a separate set of road plans only where the required road construction information is incorporated into the overall site plan of a development.
  - (4) The names and addresses of the lot or parcel owners to be served by the private road.
  - (5) A vicinity map of a minimum scale of one inch equals 2,000 feet, showing the location of the private road in the Township, including any access roads and cross streets, road names, a scale and a North arrow.
  - (6) Existing topography at one-foot contour intervals for the portions of the site sufficient to determine drainage from the private road easement to a suitable stormwater outlet. Elevations shall be based on the most current United States Geological Survey (USGS) data.
  - (7) Proposed improvements (including, but not limited to, roads, sewers and ditches) shown in the plan and profile indicating all materials, grades, dimensions and bearings in compliance with the standards set forth in §§ 300-22A.07 and 300-22A.08 of this article.
  - (8) All existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical and natural features adjacent to such improvements, and any connections to existing public and private roads.
  - (9) Soil borings within the proposed route of the road. Existing tree coverage and wetland areas within 100 feet of either side of the proposed route shall be included.
  - (10) The location of existing buildings on the lots or parcels being served or intended to be served by the private road as well as any existing building or structures in or adjacent to any proposed road easement.
  - (11) The existing or proposed location of public and/or private utilities and easements, such as gas, electric, water, sewer, telephone, cable television, etc.

- (12) A complete statement of all terms and conditions of the proposed road easement, including copies of all easement document and easement maintenance agreement(s), submitted in accordance with the requirements of §§ 300-22A.09 and 330-22A.10 of this article. The easement and maintenance agreement(s) shall be in recordable form.

## § 300-22A.05. Private road application review procedures.

- A. Staff review. The private road application and related plans and materials shall be reviewed by the Township Zoning Administrator. A private road that intersects a public road shall require review and approval by the Berrien County Road Department. A private road that intersects a state trunk line shall require review and approval by the Michigan Department of Transportation. The applicant shall be responsible for application and coordination of approvals from other agencies. All permits, reviews and recommendations shall be forwarded, in writing, to the Planning Commission and Township Board.
- B. Planning Commission review and recommendation. The Planning commission shall review all private road applications along with all Township Planner's and Engineer's reviews and recommendations, at a regularly scheduled public meeting. The Planning Commission shall recommend to the Township Board approval, approval with conditions, or denial of the private road application based on the requirements of this article.
- C. Township Board review and determination. After receiving recommendation from the Planning Commission, the Township Board shall review all private road applications along with all planning and engineering reviews and recommendations, at a regularly scheduled public meeting. The Township Board shall approve, approve with conditions, or deny the private road application based on the requirements of this article.
- D. The applicant shall post a performance guarantee in an amount determined necessary by the Building Inspector to ensure that the private road is built to the standards listed in this article or any other Township ordinance. If the applicant fails to construct the private road according to the approved plan, the Township shall use the applicant's performance guarantee to correct any problems or errors in construction created by the applicant or their contractors.
- E. Expiration of approval. If the construction, including the removal of vegetation and/or soil disturbance, of the private road does not commence within nine months of final approval, or if construction has not been completed within 12 months after it has commenced, the private road approval shall become null and void and a new application shall be required. Before the end of the 11th month of the private road approval, an applicant may request, in writing, to the Township Board for a six-month extension of a private road approval. The Township Board may grant the extension if it finds that the approved site plan adequately represents current conditions and the plan conforms to current ordinance standards.
- F. Administrative relief. Where there are practical difficulties restricting an applicant from meeting the strict letter of this article, the Township Board, based on recommendations from the Planning Commission, Building Inspector and/or Zoning Administrator, shall have the authority to grant relief of specific requirements. Relief shall only be granted for the following purposes:
- (1) Preservation of natural features or to prevent an excessive amount of grading and/or alteration of the land.
  - (2) When the road is an existing nonconforming road due to easement width and additional easement right-of-way cannot be reasonably obtained.

## § 300-22A.06. Shared driveway design and construction requirements.

- A. All shared driveways shall be located within an easement with a minimum width of 33 feet. In the event that a shared driveway is expanded to a private road, the new private road must meet the current Berrien County Road Department standards, and all parcels must meet the current standards of Buchanan Township Zoning Ordinance.
- B. The improved area shall have a minimum width of 10 feet and shall be constructed of gravel aggregate or a hard surface.

## § 300-22A.07. Private road design and construction requirements.

- A. All private roads shall be located within an easement with a minimum width of 66 feet.
- B. Compliance required. It shall be unlawful for any person, association, organization or corporation to create, establish or build a private road within the Township, unless it is constructed in accordance with the current Berrien County Road Department standards for public roads unless otherwise provided for in this article.
- C. Private roads shall be named and, upon construction of the road, appropriate signs shall be erected to identify the road name. Names of private roads shall be approved by the Berrien County Road Department. The applicant is responsible to pay all expenses for approval and signage.
- D. All private roads shall be drained according to Berrien County Road Department standards.
- E. Class A private road.
  - (1) A Class A private road shall be improved with a hard surface, meeting Berrien County Road Department requirements.
  - (2) The road shall be designed to connect with another public road or another Class A private road.
  - (3) The private road shall be designed so that it has a reasonable probability of dedication as a public road at a future time.
  - (4) The road may also serve two or more nonresidential uses, or any combination of residential and nonresidential uses, not including agricultural uses and farm buildings.
- F. Class B private road. A Class B private road shall be improved with a hard surface or gravel aggregate meeting the Berrien County Road Department's roadway standards, with the exception that the hard-surfaced pavement is excluded and the aggregate base shall be MDOT Specification 23A as opposed to the 22A required as a base on paved roadways.
- G. Inspections. The applicant shall notify the Township 48 hours prior to commencement of construction to facilitate inspection at various stages of construction by the Building Inspector. Inspections conducted by the Building Inspector are intended to ensure that the road is being constructed in compliance with the standards in this article or any other ordinance and the approved site plans.
- H. Spot inspections during construction may be conducted to ensure proper completion of the following work items where applicable:
  - (1) Grade and alignment;
  - (2) Preliminary drainage and utility structures;
  - (3) Finish subgrade;
  - (4) Base and paving materials;



- (5) Bituminous or concrete parking;
  - (6) Curb and gutter;
  - (7) Compaction of subsoils; and
  - (8) Soil erosion and sediment control.
- I. Approval of any construction phase by the Building Inspector does not guarantee approval of subsequent phases or approval of the constructed road.
  - J. Upon completion of the private road, the applicant or its engineer shall submit two sets of as-built drawings to the Zoning Administrator and two sets to the Building Inspector. The Building Inspector shall review the as-built drawings and conduct a final inspection to ensure that all visible construction, including cleanup, has been satisfactorily completed.
  - K. Final inspection. An inspection shall be conducted by the Building Inspector upon completion of the private road to ensure that the road is constructed in compliance with the requirements in this or any other section of this chapter and the approved private road plans.
  - L. Performance guarantee. To assure completion and/or maintenance of a private road in accordance with the requirements set forth in this article, the Township shall require the applicant to provide a performance guarantee in an amount determined necessary by the Building Inspector to insure that the private road is built to the standards listed in this article and any other Township ordinance. If the applicant fails to construct the private road according to the approved plan, the Township shall use the applicant's performance bond to correct any problems or errors in construction created by the applicant or its contractors.

## § 300-22A.08. Private road or shared driveway easement.

- A. Easement document. The applicant shall submit a shared driveway or private road easement, in recordable form, meeting the following minimum requirements:
  - (1) A detailed legal description of the easement.
  - (2) A provision providing for unrestricted access for emergency and public vehicles used in performance of necessary public services.
  - (3) A description of the method by which the initial costs of construction will be paid. If more than one property owner will share in the cost of initial construction, then the easement document shall specify the formula that will be used to apportion the costs.
  - (4) A description of the method for apportioning costs to subsequent users for any subsequent extensions or improvements to the road.
  - (5) Language prohibiting any property owner served by the shared driveway or private road from restricting or interfering with the normal ingress or egress of other property owners, their families, guests, invitees, tradespeople, and others traveling to or leaving from any of the properties served by the road.
  - (6) A statement that the Township Board may require that future abutting private roads or public roads connect to the existing private road.
- B. A private road and shared driveway easement shall be submitted to the Township Zoning Administrator. After making any necessary revisions, the private road or shared driveway easement shall be recorded with the County Register of Deeds. Proof of this recording shall be submitted to the Township Zoning Administrator and Township Assessor prior to any construction of the private road, including the removal of vegetation and/or soil disturbance.

## § 300-22A.09. Easement maintenance agreements.

- A. Continued maintenance of private roads and road drainage facilities shall be the responsibility of the property owner(s) served by the road. Prior to issuance of construction permits, all property owner(s) shall enter into a legally binding easement maintenance agreement, which shall be submitted in recordable form. At a minimum, the easement maintenance agreement shall contain the following:
- (1) Provisions for the establishment of a private road association, which shall be responsible for the maintenance of the private road. The association shall consist of all owners of property that are served by the private road.
  - (2) Language to specifically address the liability and responsibility of the association and the parties to the agreement to maintain the private road according to the specifications of this article, including, but not limited to, the responsibility of removing snow, repairing and/or grading the private road(s).
  - (3) A statement that the agreement runs with the land and shall include the requirements of § 330-22A.04 of this article, pertaining to notification of future owners of their maintenance responsibilities.
  - (4) The agreement shall acknowledge that the road surface and easement area are privately owned, and, therefore, all construction and improvements within the easement will be contracted and paid for by the private road association.
  - (5) Methods of apportioning maintenance costs.
    - (a) Original users. The easement maintenance agreement shall describe the method by which maintenance costs and costs of improvements will be apportioned by the original users.
    - (b) Apportioning costs to subsequent users. The easement maintenance agreement shall describe the method for apportioning subsequent users for proportionate share of the maintenance costs and costs of improvements.
    - (c) The easement maintenance agreement shall indicate that the method of apportioning costs applies whether the subsequent users are a result of:
      - [1] Extension of the private road beyond its initial length;
      - [2] Connection to another private road; or
      - [3] Division of property that is to be served by the private road.
  - (6) Continuing obligation. The easement maintenance agreement shall specify that obligation to maintain the easement shall be an obligation running with the land to be served by the private road and shall be binding upon the owner(s) of such land and their heirs, successors, and assigns.
  - (7) The agreement shall specify, placing on notice all future purchasers, mortgagees and others with possible interest in the development, that the Township will not approve any building permits for construction on any parcel before it is served by the road in compliance with the standards set forth in this chapter.
- B. Township responsibility. The provisions in the easement maintenance agreement shall in no way be construed to obligate the Township to perform regular inspections of the easement area or to provide necessary repairs or maintenance.
- C. The Township may intercede in the maintenance of a private road only if a potential health or safety hazard could be created if the road is not being maintained in accordance with Township standards. Enforcement of the maintenance agreement shall be the responsibility of each private road association.

- D. Special assessment provision. The easement maintenance agreement shall contain a provision to permit the Township Board to authorize the repair of any private road which is not being maintained adequately to allow for safe access by users and emergency vehicles and to assess the cost of such repair, including the cost of engineering and administration, to the owners of property served by the private road on an equal basis. The decision to authorize repair of a private road shall be at the Township Board's sole discretion in accordance with its legislative powers.
- E. Maintenance needs. The easement maintenance agreement shall acknowledge the responsibilities of the private road association to maintain the following: surface grading and resurfacing at regular intervals, snow and ice removal, repair of potholes, maintenance of road drainage systems; maintenance of unobstructed vision at any intersection with another private or public road; annual dust control; and regular cutting of weeds and grass within the easement.
- F. The easement maintenance agreement shall be submitted to the Zoning Administrator and reviewed by the Township Attorney. After making any necessary revisions, the easement maintenance agreement shall be recorded with the County Register of Deeds. Proof of this recording shall be submitted to the Zoning Administrator prior to any construction of the private road, including the removal of vegetation and/or soil disturbance. Any amendments to or terminations of an easement maintenance agreement must be submitted to the Township for review and approval prior to execution and recording with the County Register of Deeds.
- G. Any lot added to a private road existing at the time of the adoption of this chapter shall be responsible for its fair share of the road maintenance as required by the easement maintenance agreement. If the addition of new lots is not addressed by the existing agreement, or if there is no agreement, the new lot shall not be created until an easement maintenance agreement is changed to acknowledge the addition of new lots or a new agreement is created. The easement maintenance agreement shall meet the requirements of this article.

## § 300-22A.10. Extension and/or improvements of an existing private road.

An existing private road that is not in compliance with current standards or the requirements of this article may be extended or improved, provided:

- A. The private road shall be upgraded to current Berrien County Road Department standards, at the direction of the Building Inspector, to safely carry the expected traffic load and provide year-round access to adjoining properties, including access by emergency vehicles. Upon approval, the aforementioned road must also meet all applicable Township, county and state road construction specifications.
- B. The applicant(s) requesting such extension(s) or improvement(s) shall assume the financial responsibility for covering the entire costs associated with the design and construction of a road extension or improvement, unless an alternate method of shared costs is developed and unanimously agreed upon as an amendment to the maintenance agreement by all existing property owners served by the private road and the applicant. The amendment shall be recorded and submitted to the Zoning Administrator before final approval of the road extension and/or improvements.
- C. All legal and financial details regarding alternative methods of apportioning costs for the extension(s) or improvement(s) of a private road shall be negotiated between the applicant and the existing property owners served by the road. Buchanan Township shall not be responsible for any costs for extensions or improvements made to private roads.
- D. Notwithstanding the above, if the owners of a conforming private road that complies in all respects with the requirements of this article opt to upgrade or improve the road, the plans, which shall in all respects conform to the requirements of this article, shall be reviewed, and upon a recommendation of approval from the Building Inspector, approved administratively by the Zoning

Administrator. It shall be the responsibility of the owners of the private road to show that the existing road is in complete conformance with the requirements of this article.

## § 300-22A.11. Commercial access.

Commercial properties shall not gain direct access from a private road that is already serving residential properties unless the request to gain access is approved unanimously by all existing property owners served by the road.

## § 300-22A.12. Existing private roads; appropriate remedies.

- A. If, after appropriate investigation, the Building Inspector, the Zoning Administrator and the Fire Chief determine that any private road has become obstructed, impassable, unsafe or has deteriorated to such disrepair that the Township may not be able to supply adequate police, fire and emergency vehicle access to residences located on the private road, the Zoning Administrator shall give written notice of the violation to those property owners served by the private road and to the private road association, if one exists.
- B. If there is no reply from the property owners and/or the private road association within 21 days of notification, or repairs and corrective maintenance are not corrected or abated by the date specified, the Zoning Administrator shall request authorization from the Township Board to bring the road up to the design standards specified in this chapter and assess owners of parcels served by the private road for the improvements according to § 300-22A.09D, Special assessment provision, plus an appropriate administration fee, to reimburse costs incurred by the Township, as permitted by appropriate law. No public funds of the Township shall be used to build, repair or maintain the private road.
- C. If the property owners respond to the Township within 21 days of notification and request an extension of time, the Zoning Administrator shall review the information submitted with the reply. Upon finding that an extension is warranted because of unique circumstances and that an extension will not cause imminent peril to life, health or property, the Zoning Administrator may request the Township Board to extend the specified time limit to a date certain, if the Board concurs that the reply indicates that the violation shall be corrected or abated by the date certain and that all future maintenance will comply with the regulations as set forth herein.

## § 300-22A.13. Construction of shared driveways or private roads for land divisions.

The construction, extension or improvement of any private roads in conjunction with a land division application under Chapter **142**, Land Division, of this Code and the Michigan Land Division Act (1997 P.A. 87, as amended)<sup>[1]</sup> proposed land division plan must be completed. Prior to final approval of the land division, the applicant must provide a shared driveway or private road easement maintenance agreement in proposed land division plan recordable form that is approved by the Township and which must be recorded with the Berrien County Register of Deeds at the expense of the applicant. No building permits will be issued for any proposed divisions or resulting parcels until all of the requirements of this Code have been met.

[1] *Editor's Note: See MCLA § 560.101 et seq.*

## § 300-22A.14. Exemptions.

The provisions of this article shall not apply where private roads are proposed as part of site plan review required by this Code and are reviewed and approved by the Planning Commission and/or the

Township Board, including, but not limited to, planned unit developments, subdivision plats, and site condominiums.

## Article XXIII. Site Plan Review and Approval Procedures

### § 300-23.01. Purpose.

- A. The purpose of site plan review is to provide for consultation and cooperation between the land developer and the Township in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this section to ensure that each proposed development and its components, appearance, and function is in compliance with this chapter, other Township ordinances, and state and federal laws. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.
- B. The site plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Township of Buchanan Master Plan will be ensured, and the Township will develop in an orderly fashion.

### § 300-23.02. When site plan and review by Township is required.

- A. Site plan required. Except as provided in Subsection **B** hereof, submission of a site plan shall be required for review by the Township for any of the following:
  - (1) Any development or use for which submission of a site plan is required by provisions of this chapter.
  - (2) Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. This shall include alterations to construct or relocate pedestrian entrances or windows. This requirement shall in no way permit the expansion of a nonconforming structure so as to become more nonconforming or increase the area already in violation of the provisions of this chapter.
  - (3) Any proposal to change, replace with a different use, add or recommence a use on an existing site, including expansions in area, volume or intensity of an existing use unless otherwise permitted by this chapter.
  - (4) All divisions of land that involve construction of public or private streets, public or private water, sewer, or utility systems that serve more than one single-family residence, plats, and condominium developments (including "site condominium" developments).
  - (5) Any proposal to build, expand or decrease an off-street parking lot; or to resurface an off-street parking lot when construction includes resurfacing, drainage alterations, or addition or replacement of base or subgrade.
  - (6) Any other change in use or development that could affect compliance with the standards set forth in this chapter.
  - (7) Private roads as allowed and required in the private road ordinance.
  - (8) Any proposal to create, expand or alter a use or structure which involves using, storing, or generating hazardous substances.
  - (9) Special uses in all districts.

(10) Wireless communication facilities.

B. Plot plan or sketch plan. The following circumstances do not require fulfillment of the requirements of site plan review according to this chapter, including review by the Planning Commission and approval by the Township Board of Trustees. These are, however, required to file a site plan in conjunction with the requirements for building permit applications (plot plan):

- (1) Single- and two-family dwelling units on individual lots.
- (2) Residential accessory buildings (for personal use) less than 1,200 square feet in area in residential or agricultural zoning districts.
- (3) Agricultural accessory buildings located in agricultural zoning districts.
- (4) Home occupations where structure is not added.

### § 300-23.03. Application process.

A. Application for site plan review shall be made to the Township by filing of not less than 15 copies of an application form and detailed site plan with the office of the Township Zoning Administrator at least 30 calendar days in advance of the regularly scheduled Planning Commission meeting at which the plan is to be first considered. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township at the time the application is made.

B. The Township Zoning Administrator shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant. If it is complete and appears to comply with the requirements of the Zoning Ordinance, it shall be processed in accordance with this chapter.

C. Application form. Each submittal for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:

- (1) The applicant's name, address, and phone number.
- (2) The address and parcel number of the property.
- (3) A signed statement that the applicant is the owner of the property or has a legal financial interest in the property (i.e., purchase agreement).
- (4) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
- (5) Project description, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information.
- (6) The gross and net acreage of all lots or parcels in the project.
- (7) Existing zoning classification, land uses, and structures on the subject parcel.
- (8) Name and address of developer (if different from the applicant), engineer, architect and/or land surveyor.
- (9) Project completion schedule/development phases.
- (10) Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

- D. Site plan information. Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 100 feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. If there is an accurate site plan for the lot on file with the Township, the Township Zoning Administrator may waive the requirement for a site plan. The following information shall be included. (Note: By specific request, in writing, to the Planning Commission as a part of the submittals, specific requirements listed below may be waived for residential developments only.)
- (1) Name of development and general location sketch.
  - (2) Name, address and phone number of owner(s), developer, engineer, architect and/or designer.
  - (3) North arrow, scale, and date of original drawing and revisions.
  - (4) The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor or Registered Professional Community Planner. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect as required by Michigan law PA 299 of 1980, Occupational Code (MCLA § 339.101 et seq.), as amended. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
  - (5) A legal description and address of the property in question.
  - (6) Scale of at least one inch equals 100 feet.
  - (7) The area of the site in square feet and acres excluding all existing and proposed public rights-of-way.
  - (8) The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated.
  - (9) A location map showing the general relationship of the affected property to the surrounding area within a one-mile radius, in a scale not less than one inch equals 2,000 feet.
  - (10) Existing topographic elevations at two-foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions. Indicate direction of drainage flow.
  - (11) Proposed topography, drainage systems, and structures, with topographic contour intervals of not more than two feet.
  - (12) The location and elevations of existing watercourses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands.
  - (13) The location and type of existing vegetation, including location of all existing trees over 10 inches in diameter may be required.
  - (14) Any significant site amenities and unique features.
  - (15) Existing land uses and zoning classification of the subject parcels and adjacent parcels.
  - (16) All required minimum setbacks from the existing or proposed right-of-way and from adjacent lots.
  - (17) The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and all existing structures within 100 feet or adjacent to subject property, whichever is less.

- (18) The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets.
- (19) With residential proposals, a site summary indicating the proposed number and location of one bedroom units, two bedroom units, etc., typical floor plans with the square feet on floor areas; density computation, recreation facilities, open spaces, street names, and lot coverage.
- (20) With nonresidential proposals, the number of offices, number of employees, the number of floors and typical floor plans and cross sections.
- (21) Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements) and type of surfacing.
- (22) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development.
- (23) Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site and the proposed location and dimensions of any required pedestrian sidewalks. Designate loading and unloading areas, barrier-free access, any fire lanes, and carports.
- (24) Proposed finish grade of buildings, driveways, walkways, and parking lots.
- (25) Proposed type of building materials, roof design, projections, canopies and overhangs, roof-located mechanical equipment, such as: air-conditioning, heating units and transformers that will be visible from the exterior.
- (26) Proposed water service, including any proposed tap-ins, main extensions or extensions for adequate fire hydrant spacing, and/or considerations for extensions to loop other public water mains.
- (27) Proposed sanitary sewer facilities and the location of all existing utilities, easements and the general placement of lines, manholes, tap-ins, pump stations, and lift stations.
- (28) Proposed stormwater management plan, including design of sewers, outlets (enclosed or open ditches), and retention or detention ponds. Sufficient data regarding site run-off estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanency of drainage detention and/or retention as well as the impact on local surface water and groundwater. The plan shall indicate location and status of any floor drains in structures on the site. The point of discharge for all drains and pipes should be specified on the site plan.
- (29) Locations of existing and proposed fire hydrants with reasonable access thereto for firefighting, police and other emergency equipment.
- (30) Location of all other utilities on the site, including, but not limited to, natural gas, electric, cable TV, telephone and steam.
- (31) Soil erosion and sedimentation control measures.
- (32) Detailed landscaping plan indicating location, types and sizes of material.
- (33) All proposed screening and freestanding architectural walls, including typical cross sections and the height above ground on both sides.
- (34) The dimensions and location of all signs, both wall signs and freestanding signs and of lighting structures and shielding.
- (35) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.



- (36) Location and specifications for any existing or proposed outdoor or below-ground storage facilities as well as any screening or containment structures or clear zones required by government authorities.
- (37) Easements for proposed public rights-of-way, utilities, access, shared access, and drainage.
- (38) Notation of any variances which have been or must be secured.
- (39) Notation of performance guarantees to be provided, including amounts, types, and terms.
- (40) Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or Township. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services, impact on historical or cultural resources, displacement of people or other uses as a result of the proposed development, alterations of the character of the surrounding area, effect on the Township's tax base and adjacent property values, or other data which the Township may reasonably deem necessary for adequate review.
- (41) The size, location and description of any proposed interior or exterior areas or structures for storing, using, loading or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site quantities greater than 100 kilograms or 25 gallons per month.
- (42) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
- (43) Plans depicting existing and proposed building elevations.
- (44) For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated. A detailed site plan need be submitted only for that portion of the property for which a building permit will be applied for.
- (45) Building elevations of the proposed structure(s) from each direction shall be shown.
- (46) The site plan application may include such other special information and considerations relative to the existing or proposed site plan as may be deemed appropriate by the developer or owner or as may be required by the planning commission if it deems them necessary for the protection of the public health, safety and general welfare.

## § 300-23.04. Criteria for granting site plan approval.

Each site plan shall conform to all applicable provisions of this chapter. The following criteria shall be used as a basis upon which site plans will be reviewed by the Planning Commission and approved by the Township Board. The Township shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

- A. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
- B. The site plan shall comply with the zoning district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in this chapter.
- C. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.

- D. The site plan shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users. Where landscaping is provided, there must be provision for maintaining all plantings through a regular program of fertilizing, irrigating, pruning, mowing and replacing all dead and diseased materials.
- E. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- F. All streets shall be developed in accordance with the Township subdivision or site condominium regulations, private road ordinance, and/or the Berrien County Road Department design specifications.
- G. Special attention shall be given to proper site drainage. Appropriate measures shall be taken to ensure that the removal of surface waters will not adversely affect adjacent lots or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of stormwater facilities, and the prevention of erosion and dust. In addition, special attention shall be given to the installation of appropriate fencing and other safety measures adjacent to and surrounding stormwater retention and detention areas. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Where possible and practical, drainage design shall recognize existing natural drainage patterns. Final grades may be required to conform to existing or future grades of adjacent properties.
- H. Off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, may be required to be screened by walls, fencing or landscaping of effective height as required within the landscape provisions of this chapter.
- I. Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
- J. Site plan approval may be conditioned on the applicant receiving necessary local, state, and federal permits before final site plan approval or an occupancy permit is granted.
- K. An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the groundwater strata; to act as a natural drainage system and solve stormwater drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.
- L. All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
- M. All sites shall be designed to comply with state and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.

## § 300-23.05. Review and approval.

Site plans shall be reviewed in accordance with the following procedures:

- A. Department review. The Township may secure comments from the Building Inspector, Berrien County Road Department, Berrien County Drain Commission, Sheriffs Department, Fire

Department, and the Township's Consultant Engineer and/or Planner, and forward all comments to the Planning Commission for its review. The Planning Commission shall review the plans and may solicit further comments from an Engineer, Planning Consultant and other agencies, groups or persons, as appropriate before submitting its recommendation to the Township Board.

- B. Site plan review and recommendation. The Township Planning Commission is hereby authorized to review all site plans submitted under this chapter. Guidelines for consideration of each case shall follow this chapter and other applicable ordinances. The Planning Commission shall make its recommendation to the Township Board, recommending approval, approval with specific conditions, or denial of the site plan within 90 days of receipt of the site plan. In forwarding its recommendation to the Township Board, the Planning Commission shall clearly state findings of fact in support of its recommendation.
- C. Site plan approval. The Township Board is authorized to act upon site plans after receiving a recommendation from the Township Planning Commission. The Township Board may approve the site plan without conditions, with conditions, or may deny approval of the site plan. The Township Board shall make its decision within 90 days of having received the recommendation from the Planning Commission. It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the Township and with the Township Master Plan. A major objective shall be to retain, enhance and protect the quality, value and privacy of all residential land uses.
- D. Record of action. Each action taken with reference to site plan review shall be duly recorded in the minutes of the Township of Buchanan Planning Commission and the Township Board. A final copy of the approved site plan shall be so marked and placed on file with the Township Clerk's office.
- E. Final site plan. When a site plan approval is required, no building permit shall be issued until three copies of a final site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by the Township Supervisor, the Township Zoning Administrator or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: Township Clerk, Building Inspector and the applicant.

## § 300-23.06. Issuance of building permit after site plan approval.

Complete construction plans, including component phases, shall be submitted for review by the Building Inspector. Upon review and finding that the construction plans meet with the requirements of site plan approval and other applicable ordinances of the Township, the Building Inspector shall issue a building permit for said construction. Site plan approval shall be valid for one year from the date of approval. If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, unless extended by a vote of the Township Board. Revocation of an approved site plan shall be communicated, in writing, by certified mail to the property owner and/or applicant.

## § 300-23.07. Modification of an approved site plan.

Once site plan approval has been granted by the Township Board, changes to the approved site plan shall require a resubmission and payment of the required application fee.

## § 300-23.08. Conformity to approved site plan required.

Following approval of a site plan by the Township Board, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. A certificate of

occupancy shall be withheld by the Building Inspector in any case where the site plan and major conditions as approved by the Township Board have not been complied with.

## Article XXIV. Special Use Permit

### § 300-24.01. Special use permit review.

The Township Board shall have the following specific powers and duties concerning special use approvals.

### § 300-24.02. Statement of intent.

- A. The procedures and standards set forth in this article are intended to provide a consistent and uniform method for review of proposed plans for special uses.
- B. In hearing and deciding upon special use permit requests, the Township Board shall base its actions on a recommendation by the Planning Commission, provided that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts. It is recognized that there are variations in the nature of special uses which, because of their unique characteristics, cannot be properly classified in any particular district(s) without consideration of the impact of those uses upon neighboring land.

### § 300-24.03. Application.

- A. The application for special use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:
  - (1) The section of this chapter under which the special use is sought.
  - (2) A site plan which shall include all the information required by this chapter, if appropriate. (See Article **XXIII**.)
  - (3) A letter describing the proposed use of the property.
  - (4) Other information which the Township Board may reasonably deem necessary for adequate review.
- B. The application shall be submitted by the owner having an interest in land for which the special use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

### § 300-24.04. Notice of public hearing.

Upon receipt of a complete application, site plan, and attachments, if any, the Township Planning Commission shall schedule a public hearing on the request. The notice shall be given consistent with § 300-28.02C, Publication and delivery of notice of public hearing, of this chapter.

### § 300-24.05. Planning Commission recommendation.

Following the public hearing, the Planning Commission shall review the application for the special use permit, together with the public hearing findings and reports and recommendations of Township staff,

consultants and other reviewing agencies. The Planning Commission shall submit its recommendation to the Township Board to deny, approve, or approve with conditions requests for special use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to any recommendation for approval.

## § 300-24.06. Township Board approval.

After having reviewed the recommendation by the Planning Commission, the Township Board shall approve, approve with conditions, or deny the request for special use permit approval.

## § 300-24.07. Standards for granting special use approval.

Approval of a special use permit shall be based on the determination that the proposed use will comply with all requirements of this chapter. In addition, the following standards shall be met:

- A. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
- B. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Township as a whole.
- C. The proposed special use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Master Plan and shall promote the intent and purpose of this chapter.
- D. The Township Board shall find that a need for the proposed use exists in the community at the time the special use application is considered.
- E. The proposed use shall be designed, constructed, operated and maintained so as to ensure long-term compatibility with surrounding land uses. Consideration shall be given to:
  - (1) The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
  - (2) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - (3) The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
  - (4) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - (5) The hours of operation of the proposed use. Approval of a special use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
  - (6) Potential environmental impact of any part of the proposed development.
- F. The proposed special use shall demonstrate the ability to comply with all applicable requirements of local, state, and federal law.
- G. The location of the proposed special use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
  - (1) Proximity and access to major thoroughfares.

- (2) Estimated traffic generated by the proposed use.
  - (3) Proximity and relation to intersections.
  - (4) Location of and access to off-street parking.
  - (5) Required vehicular turning movements.
  - (6) Provision for pedestrian traffic.
- H. The proposed special use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
- I. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
- J. The proposed use shall be compatible with the natural environment.
- K. The proposed use shall conform to any standards set forth for that use elsewhere in this chapter, including Article **XVIII**.

## § 300-24.08. Recording of Township Board action.

Each action taken with reference to a special use proposal shall be duly recorded in the minutes of the Township Board. The minutes shall record the findings of fact relative to each special use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.

## § 300-24.09. Amendments to special uses.

When an application is received to expand or change the use, traffic pattern, or other elements of a special use, the application shall be subject to the same procedures followed for an original special use. The denial of an application to amend an existing special use permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) special use permit approval.

## § 300-24.10. Revocation of special use approval.

Approval of a special use permit and site plan may be revoked by the Township Board if construction is not in conformance with the approved plans. In such a case, the Zoning Administrator shall place the special use on the agenda of the Township Board for consideration, and give written notice to the applicant at least five days prior to the meeting. The applicant shall be given the opportunity to present information to the Township Board and answer questions. The Township Board may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.<sup>[1]</sup>

[1] *Editor's Note: Original Section 24.02, Performance guarantees, which immediately followed this section, was relocated to its own article as part of the 2019 codification. See now Art. **XXII**, Performance Guarantees, § 300-22.01 et seq.*

## Article XXV. Nonconforming Uses and Structures

### § 300-25.01. Description and purpose.

- A. Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this chapter or a subsequent amendment, but which were lawfully established prior to the time of adoption of the ordinance or amendment. Such nonconformities are declared by this chapter to be incompatible with the current or intended use of land in the district in which they are located.
- B. Accordingly, the purpose of this article is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

## § 300-25.02. Nonconforming uses of land.

- A. A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.
- B. Where, on the effective date of this chapter, or the effective date of an amendment of this chapter, a lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
  - (1) Expansion of use. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
  - (2) Moving. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
  - (3) Discontinuation of use. If such nonconforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which it is located.

## § 300-25.03. Continuance of nonconforming use or structure.

- A. In general. A nonconforming structure exists when the height, size, minimum floor area, or lot coverage by a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
- B. Nonconforming structures. Where a building permit has been issued to a lawful structure prior to the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - (1) Expansion of structure. Structures or uses nonconforming by reason of height, yard area, or parking provisions may be extended, altered or modernized, provided that no additional encroachment of the height, yard, area or parking provisions are occasioned thereby.
  - (2) Moving. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.
  - (3) Damage and destruction. In the event that a building or structure that is nonconforming is damaged or destroyed by fire, flood, wind or other natural means, a similar building, designed for the same purpose, and of the same size may be repaired and constructed in substantially the same location as the previous building or structure and its use for the same purpose may be continued if the cost of repair, reconstruction or restoration is not more than 50% of the building's pre-catastrophe fair market value. In the event that repair and construction of said building is not commenced within a period of 12 months after the aforesaid damage and

destruction, then the building or structure shall conform to the uses allowed in the zoning district in which they are located. Restoration shall be started within a period of one year (12 months) after the time of such damage or event and shall be diligently pursued to completion. An extension may be granted upon review and approval by the Planning Commission.

- (4) Abandonment. In the event that the use of said premises, buildings or structures is discontinued or abandoned for a period of more than 12 months, after the aforesaid damage and destruction, then the use of the premises, and buildings and structures located hereon, shall conform to the uses allowed in the zoning district within which they are located.
- C. Preexisting lots of record. Lots of record legally in existence as of the date of adoption of this chapter which do not meet the minimum lot area or width standards of this chapter shall not be regarded as nonconforming, provided the existing or proposed use shall meet all yard requirements.

## § 300-25.04. Alterations, repairs and maintenance.

- A. Protecting public safety. Repairs or maintenance deemed necessary by the Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- B. Enlargement and extension beyond present building confines. No nonconforming use of land including residential dwellings shall hereafter be enlarged or extended beyond its present building confines.
- C. A nonconforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use and is made to conform to all the regulations of the district in which it is located, except as provided herein.
- D. No building partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use, except as provided herein.
- E. No nonconforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed on the effective date of this chapter, or to displace any conforming uses in the same building or on the same parcel, except as provided herein.
- F. A building or structure which is nonconforming with respect to yards or any other element of bulk regulated herein shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformance with respect to the bulk regulations of the district in which it is located, except as provided herein.
- G. Enlargement, extension and increase in bulk, of building, improvements or uses of a nonconforming use may be granted by the Township Zoning Board of Appeals by a variance authorized pursuant to the procedures provide in this chapter.

## § 300-25.05. Township removal of nonconforming uses and structures.

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Section 208, Public Act 110 of 2006, MCLA § 125.3208, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.



## § 300-25.06. Change in tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this chapter.

## § 300-25.07. Encumbering land required to satisfy regulations.

No portion of a lot necessary for compliance with the provisions of this chapter in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

## § 300-25.08. Unlawful nonconformities.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

By definition, "nonconforming" refers to a lot, building, or use that was legally in existence at the effective date of this chapter or that was in conformance with this chapter at the time it was established. Any structure or use that was not legally established is hereby declared unlawful.

## § 300-25.09. Recording of nonconforming uses and structures.

The Township shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this chapter. Failure on the part of a property owner to provide the Township with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

## § 300-25.10. Plans already filed.

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a building permit for such building has been issued, such building may be erected provided construction is begun within three months and diligently pursued to completion.

# Article XXVI. Zoning Board of Appeals

## § 300-26.01. Creation.

It is hereby created under the Michigan Zoning Enabling Act, Act 110 of 2006 ("the Act"), MCLA § 25.3101 et seq., as amended, the Township of Buchanan Zoning Board of Appeals, referred in this chapter as the "Zoning Board of Appeals." The Zoning Board of Appeals (ZBA) shall be constituted and appointed as provided by "the Act," and shall be composed of five members and two alternate members may be appointed to serve in accordance with the Act.

## § 300-26.02. Intent.

The purpose of this chapter is to provide guidelines and standards to be followed by the Zoning Board of Appeals to act on matters where this chapter or state law gives jurisdiction to the ZBA.

### § 300-26.03. Adoption of rules and procedures.

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with this chapter and the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.

### § 300-26.04. Jurisdiction of Zoning Board of Appeals.

- A. General authority. The ZBA shall have the authority to act on those matters where this chapter provides for administrative action by the Zoning Administrator or the Planning Commission, and to authorize a variance as defined in this chapter and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this chapter. The Zoning Board of Appeals shall not have authority to hear appeals related to any decision or conditions attached to any decision pertaining to a special use permit, planned unit development, or site plan review.
- B. Administrative review. The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this chapter.
- C. Interpretation. The ZBA shall have authority to hear and decide appeals or requests for interpretation of this chapter, including the Zoning Map. The ZBA shall make such decisions so that the spirit and intent of this chapter shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the chapter as a whole, and shall not have the effect of amending the chapter. Map and boundary interpretations shall be made based upon rules in the chapter, and any relevant historical information. In carrying out its authority to interpret the chapter, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the chapter. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the chapter.
- D. Variances. The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this chapter by varying or modifying any of its rules or provisions so that the spirit of this chapter is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the chapter. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this chapter. Such authority shall be exercised in accordance with the following standards:
  - (1) The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
    - (a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the chapter unnecessarily burdensome.
    - (b) The variance will do substantial justice to the applicant, as well as to other property owners.

- (c) A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
  - (d) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - (e) The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
- (2) In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

E. Conditions.

- (1) The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:
- (a) To ensure 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 under consideration.
  - (b) To protect the natural environment or to conserve natural resources and energy.
  - (c) To ensure compatibility with adjacent uses of land.
- (2) Conditions imposed shall be designed to protect natural resources and the health, safety, and welfare of affected parties. Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

## § 300-26.05. Application and notices.

- A. Application. All applications to the ZBA shall be filed with the Township Clerk or a designated representative, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. The Clerk shall transmit the application and information to each member of the Zoning Board of Appeals within five days of the filing date. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.
- B. Plot plan.
- (1) A plot plan shall be required with all variance requests. The plan shall be to scale and include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property and abutting lots and parcels, dimensions of the structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this chapter. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Article **XXIII** shall satisfy the requirements of this section.
- (2) The ZBA shall have the authority (2) require a land survey prepared by a registered land surveyor or registered engineer registered in the State of Michigan when the ZBA determines it to be necessary to ensure accuracy of the plan.

- (3) The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed, including relevant plans, studies and other information. A completed application for a hearing before the Zoning Board of Appeals including relevant plans, studies, and other information must be submitted before a public hearing is scheduled.
- C. Application involving an appeal of administrative order. In a case involving an appeal from an action of an administrative official or entity, the administrative official or the clerk or secretary of the administrative entity, as the case may be, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- D. Consent of property owner required. Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.
- E. Notice. The Township shall publish notice of the request consistent with § 300-28.02C, Publication and delivery of notice of public hearing, of this chapter.
- F. Stay of proceedings. An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA or by a court of competent jurisdiction.
- G. Decision by the Zoning Board of Appeals. The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this chapter, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this chapter, or to grant a variance from the terms of this chapter. A decision shall be made upon each case within 60 days after a request or appeal has been filed with the ZBA unless additional time is agreed upon with the parties concerned.

## § 300-26.06. Disposition and duration of approval.

- A. ZBA powers. The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this chapter and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.
- B. Decision final. A decision by the ZBA shall not become final until the expiration of 10 days from the date of entry of such order and service of the same upon the parties concerned unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.
- C. Period of validity. Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. A variance granted by the ZBA shall be commenced within one year of action by the ZBA, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

- D. Record of proceedings. The secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.
- E. Appeal of a ZBA decision. An appeal of a ZBA decision may be taken to Berrien County Circuit Court.
- F. New application for variance. If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one-year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.
- G. Site plan requirements. If an application or appeal to the ZBA involves a development which requires a recommendation of site plan approval by the Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Article **XXIII**, Site Plan Review and Approval Procedures. The Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Planning Commission's findings thereon to the Zoning Board of Appeals.

## Article XXVII. Zoning Administration

### § 300-27.01. Responsibilities.

- A. The Zoning Administrator, or his/her duly authorized representative as specified in this chapter, is hereby charged with the duty of enforcing the provisions of this chapter. Furthermore, administrative responsibilities are vested in the following Township entities:
  - (1) Township Board.
  - (2) Planning Commission.
  - (3) Zoning Board of Appeals.
  - (4) Zoning Enforcement Officials, which shall include the Zoning Administrator and his/her duly authorized assistants or representatives.
- B. The purpose of this article is to set forth the scope of authority of these entities.

### § 300-27.02. Township Board.

The Township Board shall have the following responsibilities and authority pursuant to this chapter.

- A. Adoption of zoning ordinance and amendments. In accordance with the intent and purposes expressed in the Preamble to this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, Act 110 of 2006, MCLA § 25.3101 et seq., as amended, the Township Board shall have the authority to adopt this Ordinance, any amendments to this Ordinance which have been previously considered by the Planning Commission at a hearing, or as decreed by a court of competent jurisdiction.

- B. Setting of fees. The Township Board shall, by resolution, have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this chapter. In the absence of specific action taken by the Township Board to set a fee for a specific permit or application, the Township Supervisor shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
- C. Approval of Planning Commission members. In accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, members of the Planning Commission and regular and alternate members of the Zoning Board of Appeals shall be appointed by the Township Supervisor with the approval of the Township Board, or by the Township Board, as provided in the Act.

### § 300-27.03. Township Planning Commission.

- A. Creation. The Township Planning Commission is created pursuant to Michigan Public Act 33 of 2008, as amended, the Michigan Planning Enabling Act, MCLA §§ 125.3801 et seq. The Planning Commission shall have all the powers and duties provided pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.
- B. Jurisdiction. The Planning Commission shall discharge the following duties pursuant to this chapter:
  - (1) Formulation of zoning ordinance and amendments. The Planning Commission shall be responsible for formulation of the zoning ordinance, review of amendments to the zoning ordinance, holding hearings on a proposed zoning ordinance or amendments, and reporting its findings and recommendations concerning the zoning ordinance or amendments to the Township Board.
  - (2) Site plan review. The Planning Commission shall be responsible for review of applications for site plan approval in accordance with Article **XXIII** and making recommendations on approval or denial to the Township Board.
  - (3) Special use review. The Planning Commission shall be responsible for holding hearings and review of all applications for special use approval in accordance with Article **XXIV** of this chapter and making recommendations to the Township Board on approval or denial.
  - (4) Planned unit development review. The Planning Commission shall be responsible for holding hearings and review of all applications for PUD, and in making recommendations to the Township Board regarding approval, approval with conditions, or denial of a proposed PUD in accordance with Article **XIV**. Because the Township Board shall be responsible for granting approval, approval with conditions, or denial of a planned unit development proposal, the Township Board is also required to hold a public hearing on a proposed PUD in accordance with Article **XIV**.

### § 300-27.04. Zoning Board of Appeals.

The Zoning Board of Appeals shall act on all questions as they may arise in the administration of this chapter, including the interpretation of the Zoning Map. The Zoning Board of Appeals shall also hear and decide appeals from any order, requirements, decision, or determination made by an administrative official or body charged with enforcement of this chapter; and shall hear and decide matters referred to it or upon which it is required to pass under this chapter. The Zoning Board of Appeals shall not have the power to alter or change zoning district classification of any property. The creation responsibilities and limitations of power of the Zoning Board of Appeals are further specified in Article **XXVI** of this chapter.

### § 300-27.05. Zoning enforcement officials.

- A. Establishment of enforcement officials. As specified throughout this chapter, certain actions necessary for the implementation of this chapter shall be administered by the Township Supervisor or his/her duly authorized assistants or representatives. In carrying out designated duties, enforcement officers shall administer the chapter precisely as it is written and shall not make changes or vary the terms of this chapter.
- B. Responsibilities of the Zoning Administrator. The Zoning Administrator shall be appointed by the Township Supervisor with approval of the Township Board and shall serve under the direction of the Township Supervisor. The Township Zoning Administrator shall have the following responsibilities:
- (1) Provide citizens and public officials with information relative to this chapter and related matters.
  - (2) Assist applicants in determining the appropriate forms and procedures related to site plan review, zoning, and other zoning matters.
  - (3) Review all applications for site plan review, special use review, planned development proposals, and take any action required as outlined in this chapter.
  - (4) Forward to the Planning Commission all applications for site plan review, special use review, planned unit development proposals, petitions for amendments to this chapter, and other applications which must be reviewed by the Planning Commission.
  - (5) Forward to the Zoning Board of Appeals all materials related to applications for appeals, variances, of other matters on which the Zoning Board of Appeals is required to act.
  - (6) Forward to the Township Board all recommendations of the Planning Commission concerning matters on which the Township Board is required to take final action.
  - (7) Periodically report to the Planning Commission on the status of Township zoning and planning administration.
  - (8) Maintain an up-to-date Zoning Map, Zoning Ordinance text, and office records by recording all amendments and filing all official minutes and other documents in an orderly fashion.
  - (9) Maintain a record of all nonconforming uses, structures, and lots existing on the effective date of this chapter, and update this record as conditions affecting the nonconforming status of such uses or structures changes.
  - (10) Issue zoning compliance permits.
  - (11) Make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this chapter.
- C. Conformance with this chapter. It shall be unlawful for the Zoning Administrator to approve any plans or issue any zoning permits or certificates of occupancy until he/she has inspected such plans in detail and found them to conform with this chapter.
- D. Violations. If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, the Zoning Administrator shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary for correction. The Zoning Administrator shall order discontinuance of illegal uses of land, building, or structures; removal of illegal changes; discontinuance of any illegal work being done; and shall take any other action authorized by this chapter or general law to ensure compliance with or to prevent violation of the provisions of this chapter.
- E. Duties and limitations of the Building Inspector. It shall be unlawful for the Building Inspector to approve any plans or issue a building permit for any excavation or construction or use until the Zoning Administrator has inspected such plans in detail and has found them in compliance with this chapter.

# Article XXVIII. Amendments to Zoning Chapter and Map

## § 300-28.01. Description and purpose.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this chapter shall not be amended except to correct an error in the chapter or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing district or to change the regulations and restrictions thereof. Such amendment to this chapter may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this chapter shall be in accordance with Act 110 of the Public Acts of 2006 (MCLA § 125.3101 et seq.), the Zoning Enabling Act, as amended.

## § 300-28.02. Amendment, notice and hearing procedures.

- A. Application. Applications for amendments to this chapter shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this chapter, without limiting the right to file additional material, shall contain the following:
- (1) The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
  - (2) The nature and effect of the proposed amendment.
  - (3) If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area affected, the present zoning classification of the land, the names and addresses of the owners of all land and the legal descriptions of their land within the area to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.
  - (4) If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
  - (5) The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
  - (6) All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.
- B. Receipt of application. The Zoning Administrator, upon receipt of an application to amend the chapter, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection C below.
- C. Publication and delivery of notice of public hearing. Where this chapter requires the Township to provide notice of a public hearing for any decision or action permitted, authorized or required by this chapter or under the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCLA § 125.3103 et seq., as amended, notice of the public hearing shall be given as follows:



- (1) The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
  - (2) Except as provided in Subsection **C(4)** of this section, a notice of public hearing shall also be mailed or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
    - (a) The applicant;
    - (b) The owner or owners of the subject property;
    - (c) All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request, even if the 300 feet extends outside of the Township's boundaries; and
    - (d) The occupants of all structures within 300 feet of the property that is the subject of the application or request, even if the 300 feet extends outside of the Township's boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
  - (3) The notice of public hearing shall include the following information:
    - (a) A description of the nature of the proposed amendment, application or request.
    - (b) An identification of the property that is the subject of the application or request, if applicable. Except as provided in Subsection **C(4)** of this section, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
    - (c) State when and where the application or request will be considered.
    - (d) Identify when and where written comments will be received concerning the application or request.
    - (e) In the case of an amendment to the chapter or to the Zoning Map, the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.
  - (4) When a proposed rezoning involves the text of this chapter, or 11 or more adjacent properties, or when a petition to the Zoning Board of Appeals involves an interpretation of this chapter or an appeal of an administrative decision that does not involve a specific parcel, the mailing or delivery requirements of Subsections **C(2)(b)**, **(c)** and **(d)** are not required, and the listing of individual property addresses under Subsection **C(3)(b)** is not required.
  - (5) For a zoning ordinance amendment, including rezoning of property, the notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
  - (6) After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.
- D. Planning Commission recommendation. Following the public hearing, the Planning Commission shall forward the proposed amendment to the Berrien County Planning Commission for review pursuant to the Michigan Zoning Enabling Act (Act 110 of the Public Acts of Michigan of 2006). Upon receipt of any comment from the Berrien County Planning Commission or after 30 days, the Township Planning Commission shall prepare a report and its recommendations regarding the proposed amendment and transfer such to the Township Board.

- E. Township Board action. After the Planning Commission has held a Public Hearing and has made a written report to the Township Board indicating their recommendation on the proposed amendment, the Township Board may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The Board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings.

### § 300-28.03. Protests.

- A. Within seven days after publication of a zoning ordinance or amendment, a registered elector residing in the unincorporated portion of the Township of Buchanan may file with the Clerk of the legislative body a notice of intent to file a petition under this section.
- B. If a notice of intent is filed as noted above, the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the Clerk of the Township of Buchanan requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the Township of Buchanan for their approval.
- C. Upon the filing of a notice of intent under Subsection **A**, the zoning ordinance or part of the zoning ordinance adopted by the Township of Buchanan shall not take effect until one of the following occurs:
  - (1) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.
  - (2) If a petition is filed within 30 days after publication of the ordinance, the Clerk of the legislative body determines that the petition is inadequate.
- D. If a petition is filed within 30 days after publication of the ordinance, the Clerk of the legislative body determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the zoning jurisdiction voting on the petition at the next regular election or at any special election called for that purpose. The legislative body shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval or rejection and determining the result of the election.
- E. A petition and an election under this section are subject to the Michigan Election Law, 1954 PA 116, MCLA §§ 168.1 to 168.992.

### § 300-28.04. Conformance to court decree.

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.

### § 300-28.05. Rezoning review criteria.

In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions, factors that shall be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan, or whether there has been a change in conditions not

anticipated by the Township's Master Land Use Plan that may warrant an amendment to the Township's Master Land Use Plan;

- B. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

## § 300-28.06. Conditional rezoning.

- A. Intent. 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 (MCLA § 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.
  - (3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
  - (4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
  - (5) 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 chapter 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 chapter.
  - (6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter 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 chapter.
  - (7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.
  - (8) 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 set forth in § 300-28.05 of this chapter, 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 set forth in § 300-28.05 of this chapter. 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 may 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. 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.

(1) The statement of conditions shall:

- (a) Be in a form recordable with the Register of Deeds of the County in which the subject land is located 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. Contain a legal description of the land to which it pertains.
- (b) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
- (c) 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.
- (d) 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 the County in which the land referenced in the Statement of Conditions is located.
- (e) 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.
- (f) 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.
- (g) 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 the County in which the land is located. 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.

- (h) 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 chapter 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 chapter 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** above, then the land shall revert to its former zoning classification as set forth in MCLA § 125.3405. 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 Subsection **H** above 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** above 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 chapter and the Michigan Zoning Enabling Act (MCLA § 125.3101 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 chapter.

## Article XXIX. Violations and Penalties

### § 300-29.01. Public nuisance.

Buildings erected, altered, raised, or converted (including tents, mobile homes, and trailer coaches), or uses carried on in violation of any provision of this chapter are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of competent jurisdiction.

### § 300-29.02. Violation defined.

Any act, attempt to act or failure to act upon demand by the Township by a person, firm, corporation, or agent, or employee, contractor, or subcontractor of same, in violation of any of the provisions of this chapter or any of the regulations adopted in pursuance thereof, or any attempt to impede or interfere with an enforcement official, shall be a violation of this chapter.

### § 300-29.03. Enforcement; municipal civil infraction.

[Amended 6-7-2018 by Ord. No. 112-2018]

Every effort will be made by the Township to resolve any violation prior to issuing a municipal civil infraction. Following are the steps to be taken by the Ordinance Enforcement Official:

- A. Identify potential violation and investigate.
- (1) Receives a complaint or makes an observation of a potential violation.
  - (2) Visit the site in an attempt to gather information about the alleged infraction(s) without leaving the right-of-way or open field (trespassing).
  - (3) If more evidence is required, attempt to make direct contact with the owner in an attempt to explain the nature of the infraction and receive permission to gather more information from the property.
  - (4) Keeps a record of each complaint made, and any correspondence, written or received.
- B. Issue a violation letter.
- (1) Send, via certified mail, a violation letter to the property owner/tenant. The letter shall explain the violations and require immediate abatement.
  - (2) The violator shall be given 14 days to respond to the letter, giving a plan for correction. If a reasonable plan for correction is received, the Ordinance Enforcement Official shall give a time frame of no more than 30 days for correction.
  - (3) If no response for corrective action is received, and the violation is not corrected within the 14 days, the Ordinance Enforcement Official shall issue a municipal civil infraction citation, with the consent of the Township Attorney.
- C. Municipal civil infraction citation.

- (1) A municipal civil infraction citation is a formal complaint filed in the Berrien County District Court by the Ordinance Enforcement Official, directing the violator to appear in court.
- (2) The municipal civil infraction citation shall include the name/address of the violator, violation, date, description of violation (listing ordinances and section numbers), signed by the Ordinance Enforcement Official.
- (3) One copy of the citation is filed with the Berrien County District Court, a second is retained by the Ordinance Enforcement Official, the third is personally served on the property of the violator, the fourth is sent via certified mail.
- (4) The Ordinance Enforcement Official, and/or the defendant, may request either an informal or formal hearing.
- (5) The Court shall assess all costs, including expenses, actual attorney fees, and direct and indirect expenses which the Township of Buchanan has incurred in connection with enforcement of this chapter. The Township may collect these costs incurred by adding them to the winter property tax bill.

### § 300-29.04. Other remedies.

The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Township to initiate proceeding in an appropriate court of law to restrain or prevent any noncompliance with any provisions of this chapter, or to correct, remedy, or abate such noncompliance. All remedies referenced in this chapter may be utilized by the Township collectively, in the alternative or in any combination or order the Township may decide.

### § 300-29.05. Rights and remedies preserved.

Any failure or omission to enforce the provisions of this chapter, and failure or omission to prosecute any violations of this chapter, shall not constitute a waiver of any rights and remedies provided by this chapter or by law, and shall not constitute a waiver or prevent any further prosecution of violations of this chapter.

### § 300-29.06. Records of violations and remedies.

The Township shall keep accurate records of all decisions and actions relative to identified violations and corresponding actions and remedies.