

New Buffalo Township

# Zoning Ordinance

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**ARTICLE 1: GENERAL PROVISIONS**..... 10

1.1 INTENT AND PURPOSE ..... 10

1.2 APPLICABILITY ..... 10

1.3 CONFLICTING REGULATIONS ..... 10

1.4 NONCONFORMING STRUCTURES, USES, AND LOTS..... 10

    1.4.1 Intent and Purpose ..... 10

    1.4.2 Nonconforming Structures ..... 11

    1.4.3 Nonconforming Uses ..... 11

    1.4.4 Nonconforming Lots ..... 12

1.5 ACCESSORY USES, BUILDINGS, AND STRUCTURES ..... 12

1.6 FENCES..... 13

1.7 MAIN BUILDING OR USE ..... 14

1.8 PROJECTIONS INTO YARDS ..... 14

1.9 BUILDING HEIGHT EXCEPTIONS ..... 15

1.10 REQUIRED AREA OR OPEN SPACE ..... 15

1.11 MANUFACTURED HOMES..... 15

1.12 CONSTRUCTION BUILDINGS AND STRUCTURES ..... 16

1.13 CONSTRUCTION TIME LIMITS..... 17

1.14 KEEPING OF ANIMALS ..... 17

1.15 WATER AND SANITARY SERVICE ..... 17

1.16 CORNER LOTS..... 17

1.17 PRIVATE STREETS ..... 18

    1.17.1 Intent and Purpose ..... 18

    1.17.2 Frontage and Access..... 18

    1.17.3 Permits ..... 18

    1.17.4 Submittal Requirements ..... 19

    1.17.5 Procedure ..... 19

    1.17.6 Design Requirements ..... 20

    1.17.7 Approval Standards ..... 22

    1.17.8 Maintenance and Repairs..... 22

    1.17.9 Performance Guarantee ..... 23

    1.17.10 Inspections/Certificate of Compliance..... 23

1.17.11	Fees .....	24
1.17.12	Indemnification .....	24
1.18	CLEAR VISION AREAS .....	24
1.19	TEMPORARY DWELLINGS .....	25
1.20	LAND DIVISION .....	26
1.20.1	Limitations.....	26
1.20.2	Approval.....	26
1.21	HIGH RISK EROSION AND CRITICAL DUNE AREAS.....	27
1.22	FLOODPLAIN STANDARDS .....	27
1.22.1	General Standards For Flood Hazard Reduction.....	27
1.22.2	Delineation of the Floodplain Overlay District.....	29
1.23	ADDRESS IDENTIFICATION .....	29
1.24	RESTORATION OF UNSAFE BUILDINGS AND BARRIER FREE MODIFICATION .....	29
1.25	RELOCATION OF BUILDINGS .....	30
1.26	JUNKED CARS, BOATS, AND VEHICLES .....	30
1.27	VOTING PLACE .....	30
<b>ARTICLE 2:</b>	<b>ZONING DISTRICTS AND MAP.....</b>	<b>31</b>
2.1	ZONING DISTRICTS ESTABLISHED.....	31
2.2	INTENT OF ESTABLISHED ZONING DISTRICTS; SCHEDULE OF DIMENSIONAL REQUIREMENTS .....	31
2.2.1	Agricultural Residential District (AG-R) .....	32
2.2.2	Low-Density Residential District (R-1) .....	33
2.2.3	Medium-Density Residential District (R-2).....	34
2.2.4	Manufactured Residential District (MR) .....	35
2.2.5	General Commercial District (C-1).....	36
2.2.6	Highway Commercial District (C-2) .....	37
2.2.7	Harbor Country Drive District (HCD).....	38
2.2.8	Union Pier Districts.....	41
2.2.9	Industrial District (I).....	47
2.2.10	Floodplain Overlay District (F-1).....	49
2.3	ZONING MAP.....	49
2.3.1	Official Zoning Map .....	50
2.3.2	Zoning District Boundaries .....	50
2.3.3	Properties With Multiple Zoning Designations .....	51
2.3.4	Zoning Of Vacated Areas .....	51

- ARTICLE 3: REGULATED USES** ..... 52
  - 3.1 ZONING DISTRICT AND REGULATED LAND USE TABLE ..... 52
    - 3.1.1 Interpreting the Table ..... 52
    - 3.1.2 Similar Use Determinations ..... 52
  - 3.2 REGULATED USES TABLE ..... 53
- ARTICLE 4: SITE DEVELOPMENT STANDARDS**..... 56
  - 4.1 INTENT AND PURPOSE ..... 56
  - 4.2 PARKING AND CIRCULATION..... 56
    - 4.2.1 General Standards ..... 56
    - 4.2.2 Required Parking ..... 56
    - 4.2.3 Additional Requirements for Parking in Residential and Agricultural-Residential Zones ..... 61
    - 4.2.4 Additional Requirements for Parking in Mixed-Use, Commercial, and Industrial Zones..... 61
    - 4.2.5 Parking Lot Design..... 63
    - 4.2.6 Off-Street Loading Requirements ..... 66
    - 4.2.7 Nonmotorized Transportation ..... 67
  - 4.3 LANDSCAPING..... 70
    - 4.3.1 Intent and Purpose ..... 70
    - 4.3.2 Applicability..... 70
    - 4.3.3 General Standards ..... 71
    - 4.3.4 Existing Vegetation ..... 72
    - 4.3.5 Site Requirements..... 73
    - 4.3.6 Landscape Buffers and Screening..... 74
    - 4.3.7 Right-of-Way Landscaping ..... 75
  - 4.4 SIGNS ..... 75
    - 4.4.1 Intent and Purpose ..... 75
    - 4.4.2 General Standards ..... 76
    - 4.4.3 Submittal Requirements..... 77
    - 4.4.4 Sign Measurements ..... 77
    - 4.4.5 Illumination ..... 78
    - 4.4.6 Freestanding / Monument Sign ..... 79
    - 4.4.7 Wall Signs..... 80
    - 4.4.8 Awning Signs ..... 80
    - 4.4.9 Canopy / Marquee Signs..... 81
    - 4.4.10 Projecting Signs ..... 82

4.4.11	Window Signs .....	83
4.4.12	Electronic Display Signs.....	84
4.4.13	Environmentally Activated Signs.....	85
4.4.14	Small Temporary Signs.....	85
4.4.15	Large Temporary Signs.....	86
4.4.16	Temporary Signs in Union Pier Districts .....	86
4.4.17	Flags.....	87
4.4.18	Billboards.....	88
4.4.19	Prohibited Signs.....	89
4.4.20	Nonconforming Signs .....	90
4.4.21	Removal Of Unsafe, Unlawful, or Abandoned Signs .....	91
4.5	STORMWATER MANAGEMENT .....	91
4.5.1	Intent and Purpose .....	91
4.5.2	Applicability.....	91
4.5.3	Berrien County Drain Commission Specifications.....	91
4.5.4	Additional Provisions.....	92
4.6	EXTERIOR LIGHTING.....	92
4.6.1	Intent and Purpose .....	92
4.6.2	Standards .....	92
4.6.3	Exemptions.....	93
4.6.4	Illumination .....	94
4.6.5	Shielding And Filtration.....	94
<b>ARTICLE 5:</b>	<b>SUPPLEMENTAL USE STANDARDS .....</b>	<b>96</b>
5.1	INTENT AND PURPOSE .....	96
5.2	AGRICULTURAL TOURISM.....	96
5.3	AUTOMOBILE REPAIR.....	97
5.4	AUTOMOBILE SERVICE STATIONS .....	97
5.5	BED AND BREAKFAST ESTABLISHMENTS.....	98
5.5.1	Intent And Purpose.....	98
5.5.2	Permitted Uses.....	98
5.5.3	General Standards .....	98
5.6	CAMPGROUNDS.....	99
5.7	CHILD DAY CARE HOME, FAMILY.....	100
5.8	COMMERCIAL EXCAVATION AND DREDGING .....	101

5.9	COMMERCIAL LODGING .....	101
5.10	COMMUNICATIONS TOWERS .....	101
5.10.1	Intent And Purpose.....	101
5.10.2	Wireless Communication Equipment.....	102
5.10.3	General Standards .....	102
5.11	CONTRACTOR STORAGE YARDS .....	103
5.12	EXCAVATION BUSINESS.....	103
5.13	FOOD TRUCKS, VENDOR TRUCKS, & POP-UP OPERATIONS.....	104
5.14	GOLF FACILITIES .....	105
5.14.1	Golf Courses And Country Clubs .....	105
5.14.2	Driving Ranges (Standalone) .....	105
5.15	GROUP DAY CARE HOMES.....	106
5.16	GUEST QUARTERS .....	106
5.17	HOME OCCUPATIONS .....	106
5.18	KENNELS.....	107
5.19	LANDSCAPING BUSINESS.....	108
5.20	LUMBER AND PLANING MILLS .....	108
5.21	LUMBERYARDS.....	108
5.22	MARINAS.....	109
5.23	OPEN AIR BUSINESSES .....	109
5.24	OUTDOOR SEATING.....	109
5.25	PERMANENT PRIVATE POOLS.....	109
5.26	PERSONAL WIRELESS SERVICE FACILITIES.....	110
5.26.1	Intent And Purpose.....	110
5.26.2	General Standards .....	110
5.27	RECREATIONAL FACILITIES.....	114
5.28	RECYCLING CENTERS .....	114
5.29	RELIGIOUS INSTITUTIONS.....	115
5.30	RENEWABLE ENERGY SYSTEMS .....	115
5.30.1	Intent And Purpose.....	115
5.30.2	Personal Solar Energy Collection Systems (SECS) .....	115
5.30.3	Commercial Solar Energy Collection Systems (SECS).....	116
5.30.4	Solar Energy Conversion System Approval Standards .....	118
5.30.5	Personal Wind Energy Conversion Systems (WECS) .....	119

5.30.6	Commercial Wind Energy Conversion Systems (WECS).....	120
5.30.7	Wind Energy Conversion System Approval Standards.....	121
5.30.8	Abandonment .....	123
5.31	SEXUALLY ORIENTED BUSINESSES.....	123
5.31.1	Intent and Purpose .....	123
5.31.2	General Standards .....	124
5.32	SHOOTING RANGE .....	125
5.33	UTILITY AND PUBLIC SERVICE BUILDINGS .....	126
<b>ARTICLE 6:</b>	<b>SITE PLAN REVIEW.....</b>	<b>127</b>
6.1	INTENT AND PURPOSE .....	127
6.2	GENERAL REQUIREMENTS.....	127
6.2.1	Site Plan Required.....	127
6.2.2	Site Plan Not Required .....	127
6.3	STANDARDS FOR SITE PLAN APPROVAL.....	128
6.4	SUBMITTAL REQUIREMENTS .....	129
6.5	PROCEDURE .....	131
6.5.1	Pre-Application Conference .....	131
6.5.2	Conceptual Review.....	131
6.5.3	Completeness Review .....	131
6.5.4	Technical Review .....	132
6.6	APPROVAL, CONDITIONS, AND DENIAL .....	132
6.6.1	Administrative Review.....	132
6.6.2	Planning Commission Review.....	132
6.6.3	Approval.....	132
6.6.4	Conditional Approval.....	133
6.6.5	Denial.....	133
6.7	FEES AND PERFORMANCE GUARANTEES.....	133
6.8	RECORD OF ACTIONS .....	133
6.8.1	Minutes.....	133
6.8.2	Finding of Fact.....	133
6.8.3	Final Site Plans.....	134
6.8.4	Development Agreement.....	134
6.9	EXPIRATION, REVOCATION, AND REAPPLICATION .....	134
6.9.1	Expiration .....	134

6.9.2	Revocation.....	134
6.10	AMENDMENTS AND MODIFICATIONS.....	135
6.10.1	Insignificant Deviations .....	135
6.10.2	Minor Amendments.....	135
6.10.3	Major Amendments.....	135
<b>ARTICLE 7:</b>	<b>LAND DEVELOPMENT OPTIONS.....</b>	<b>137</b>
7.1	PLANNED UNIT DEVELOPMENT .....	137
7.1.1	Intent And Purpose.....	137
7.1.2	Uses Permitted.....	138
7.1.3	Qualifying Standards for Planned Unit Development .....	138
7.1.4	Procedure .....	139
7.1.5	Pre-Application Submittal Requirements And Review .....	140
7.1.6	Application Submittal Requirements and Review.....	141
7.1.7	Planning Commission Review And Recommendation .....	142
7.1.8	Berrien County Planning Commission Review And Recommendation .....	143
7.1.9	Township Board Review And Approval.....	143
7.1.10	Submission Of Final Site Plans .....	143
7.1.11	Termination And Expiration .....	144
7.1.12	Fees And Performance Guarantees .....	145
7.1.13	Interpretation Of Approval.....	145
7.1.14	Amendments To Planned Unit Development .....	145
7.2	MANUFACTURED HOME DEVELOPMENTS .....	145
7.2.1	General Standards .....	145
7.3	SITE CONDOMINIUM REVIEW .....	146
<b>ARTICLE 8:</b>	<b>SPECIAL LAND USES.....</b>	<b>147</b>
8.1	INTENT AND PURPOSE .....	147
8.2	STANDARDS FOR SPECIAL LAND USE APPROVAL.....	147
8.3	SUBMITTAL REQUIREMENTS .....	148
8.4	PROCEDURE .....	148
8.5	APPROVAL, CONDITIONS, AND DENIAL .....	148
8.5.1	Planning Commission Review .....	148
8.5.2	Township Board Review .....	148
8.5.3	Approval.....	148
8.5.4	Conditional Approval .....	148



8.5.5	Denial.....	149
8.6	FEES AND PERFORMANCE GUARANTEES.....	149
8.7	RECORD OF ACTIONS.....	149
8.8	EXPIRATION AND REVOCATION.....	149
8.9	AMENDMENTS AND MODIFICATIONS.....	149
<b>ARTICLE 9:</b>	<b>ZONING BOARD OF APPEALS .....</b>	<b>150</b>
9.1	AUTHORITY.....	150
9.2	MEMBERSHIP.....	150
9.3	VACANCIES.....	151
9.4	ALTERNATES.....	151
9.5	ORGANIZATION.....	151
9.6	SUBMITTAL REQUIREMENTS .....	152
9.7	APPEALS OF ADMINISTRATIVE DECISIONS .....	153
9.8	INTERPRETATION OF ZONING ORDINANCE PROVISIONS.....	153
9.9	INTERPRETATION OF ZONING DISTRICT BOUNDARIES .....	153
9.10	VARIANCES .....	153
9.10.1	Standards for Non-Use Variance .....	154
<b>ARTICLE 10:</b>	<b>ADMINISTRATION, ENFORCEMENT AND VIOLATIONS .....</b>	<b>155</b>
10.1	ZONING ADMINISTRATOR.....	155
10.2	BUILDING OFFICIAL.....	155
10.3	PLANNING COMMISSION.....	156
10.3.1	Planning Duties.....	156
10.3.2	Zoning and Development Review Duties .....	156
10.4	TOWNSHIP BOARD .....	156
10.5	FEES.....	157
10.6	PERFORMANCE GUARANTEES .....	157
10.7	PUBLIC HEARINGS .....	158
10.7.1	Public Notice.....	158
10.8	ZONING PERMITS.....	159
10.8.1	General .....	159
10.8.2	Application.....	160
10.8.3	Voiding Permit.....	160
10.8.4	Inspection.....	160
10.9	VIOLATIONS AND PENALTIES .....	160
10.9.1	Penalties.....	160

10.9.2	Nuisance Per Se .....	161
10.9.3	Municipal Civil Infraction .....	161
10.9.4	Zoning Administrator.....	161
10.9.5	Nuisance Abatement .....	161
10.9.6	Stop Work Order .....	161
<b>ARTICLE 11:</b>	<b>AMENDMENTS AND SEVERABILITY.....</b>	<b>163</b>
11.1	AMENDMENTS .....	163
11.1.1	Initiation Of Amendment.....	163
11.1.2	Standards.....	163
11.1.3	Submittal Requirements.....	164
11.1.4	Amendment Review Procedure .....	164
11.1.5	Effective Date .....	165
11.1.6	Re-Application .....	165
11.2	SEVERABILITY .....	166
<b>ARTICLE 12:</b>	<b>TITLE AND PURPOSE.....</b>	<b>167</b>
12.1	TITLE.....	167
12.2	PURPOSE .....	167
12.3	AREA OF JURISDICTION .....	168
12.4	RELATIONSHIP TO THE MASTER PLAN.....	168
<b>ARTICLE 13:</b>	<b>DEFINITIONS.....</b>	<b>169</b>

<b>ARTICLE 1: GENERAL PROVISIONS</b>	
1.1 Intent and Purpose	1.16 Corner Lots
1.2 Applicability	1.17 Private Streets
1.3 Conflicting Regulations	1.18 Clear Vision Areas
1.4 Nonconforming Uses, Structures, and Lots	1.19 Temporary Dwellings
1.5 Accessory Uses, Buildings, and Structures	1.20 Land Division
1.6 Fences	1.21 High Risk Erosion and Critical Dune Areas
1.7 Main Building or Use	1.22 Floodplain Standards
1.8 Projections into Yards	1.23 Address Identification
1.9 Building Height Exceptions	1.24 Restoration of Unsafe Buildings and Barrier Free Modification
1.10 Required Area or Open Space	1.25 Relocation of Buildings
1.11 Manufactured Homes	1.26 Junked Cars, Boats, and Vehicles
1.12 Construction Buildings and Structures	1.27 Voting Place
1.13 Construction Time Limits	
1.14 Keeping of Animals	
1.15 Water and Sanitary Service	

**1.1 INTENT AND PURPOSE**

The purpose of this Article is to provide regulations that apply in all zoning districts to all permitted uses and special uses.

**1.2 APPLICABILITY**

Unless otherwise specifically stated, the provisions of this Article shall apply to all lands within the Township and within all zoning districts. As an aid to users, this Ordinance cross-references sections that are or might be applicable to other sections. An incorrect or lack of cross-reference does not relieve a person from complying with all applicable requirements of this Ordinance. The Ordinance must be read and applied “as a whole.”

**1.3 CONFLICTING REGULATIONS**

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other Township law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall govern.

**1.4 NONCONFORMING STRUCTURES, USES, AND LOTS**

**1.4.1 Intent and Purpose**

This ordinance intends to permit legally nonconforming structures, uses, and lots to continue until they are removed but not to encourage their survival. This ordinance recognizes that there exists within the districts established by this ordinance and subsequent amendments, lots, structures, and

uses of land and structures which were lawful before this Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

#### 1.4.2 Nonconforming Structures

Nonconforming structures may be continued, repaired, or replaced only in accordance with the following provisions:

- A. Maintenance of Nonconforming Buildings and Structures.
  1. Nothing in this Ordinance shall prevent such necessary repairs and incidental alterations of a nonconforming building existing on the effective date of this Ordinance as may be necessary to secure a reasonable advantageous use thereof during its natural life.
  2. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official or to comply with barrier-free requirements of the Americans with Disabilities Act.
- B. Alteration of Nonconforming Buildings and Structures. Alterations are permitted to a nonconforming structure in which only permitted uses are operated; however, no nonconforming structure may be enlarged or expanded in a way that increases its area of nonconformance.
- C. Damaged or Destroyed Nonconforming Structures. When a nonconforming structure is damaged to the extent of fifty percent (50%) or less of the replacement cost of the structure as determined by the Building Official, exclusive of the foundation, the structure may be rebuilt in the same location, using the same building footprint, provided that rebuilding begins within one (1) year of the event which caused the damage. Restoration of a nonconforming structure pursuant to this clause shall not increase the degree of nonconformance or noncompliance existing prior to such damage.
- D. Completion of Nonconforming Buildings and Structures. Nothing in this Ordinance shall require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently pursued. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun in preparation for rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building.

#### 1.4.3 Nonconforming Uses

- A. Continuance. Any lawful nonconforming use existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered to be in

violation of this Ordinance, provided that (unless otherwise noted in this Section) the use shall not be enlarged or extended to occupy a greater area of land, nor moved in whole or in part to another portion of the lot.

B. Change of Nonconforming Use.

1. No nonconforming use shall be changed to another use other than a use conforming to the regulations established for the district in which the nonconforming use is located, nor shall any use be reverted to a nonconforming use after said use has been changed to a conforming use.
2. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure will eliminate the nonconforming status of the land.

C. Abandonment of Nonconforming Use. If a property owner abandons a nonconforming use of land for a period of two (2) years or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance.

#### 1.4.4 Nonconforming Lots

Nonconforming lots may only be continued in accordance with the following provisions.

- A. Use of Nonconforming Lots. Any nonconforming lot of record shall only be used for any purpose authorized by the district in which it is located. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for district in which such lot is located. Any required variances may be requested pursuant to the procedures and standards of this ordinance.
- B. Contiguous Nonconforming Lots. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be sold, used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance or which creates a nonconforming structure.

### 1.5 ACCESSORY USES, BUILDINGS, AND STRUCTURES

A. Accessory Uses

1. Relationship to Primary Use. Accessory uses are permitted only in connection with, incidental to, and on the same lot with a primary use which is permitted in the zoning district. No accessory use may be placed on a lot without a primary use.

2. Occupation. No accessory use shall be occupied or used unless the main structure to which it is accessory is occupied or used.
3. Placement in Front Yard. Accessory uses shall not be permitted in the front yard except in AG-R district and only if lot has a minimum of 250 feet of depth and further provided that such accessory building is equal to at least one-half the distance from the front lot line to the main building. Where the accessory buildings are permitted and placed in the front yard, such buildings shall maintain a minimum front and side yard setback of 50 feet.

B. Accessory Buildings or Structures

1. Relationship to Main Building. Accessory buildings or structures shall not be permitted on a lot or parcel which does not have a main building.
2. Conformance with Main Building. Where an accessory building is attached to a main building, it shall conform to all regulations of this Ordinance applicable to the main building, unless otherwise specified.
3. Building & Zoning Permits. A zoning permit shall be required for all accessory buildings and structures. A detached accessory building exceeding 144 square feet shall require a building permit.
4. Size. On lots with an area of 15,000 square feet or less, accessory buildings with a total footprint of 1,500 square feet shall be permitted. On lots with an area larger than 15,000 square feet, accessory buildings with at total footprint equal to 10% of the lot area or 10,000 square feet, whichever is less, shall be permitted.
5. Lot Coverage. The total area occupied by the main building and all accessory buildings and structures shall not exceed the maximum lot coverage permitted in each district.
6. Height. No accessory building or structure shall exceed 30 feet in height.
7. Farm Buildings. These restrictions shall not apply to farm buildings used in conjunction with a bona fide farm operation.

- C. Construction of Accessory Buildings or Structures. Accessory buildings shall be stick-built or the equivalent to new building construction. No mobile home, junk object, salvage materials, trailer, vehicle, or similar item shall be utilized as an accessory building or storage structure, provided that such requirement shall not be applicable to bona fide agricultural storage or activities, or to tool sheds or similar temporary storage structures utilized pursuant to the construction of a building.

**1.6 FENCES**

All fences shall:

- A. Be no taller than six (6) feet in the side or rear yards in residential or mixed-use districts.
- B. Be no taller than four (4) feet in the front yard in residential or mixed-use districts.

- C. Be no taller than six (6) feet in the front yard of any other district, and twelve (12) feet in the side or rear.
- D. Be wholly located on the property they are intended to serve.
- E. Have the unfinished side of the fence facing the interior of the permit-holder's property.
- F. Be set on or near the property line in such a way that the fence may be maintained without trespassing on the neighboring property. Invisible fences shall be exempted from the requirement.
- G. Not be made of or include barbed wire, razor wire, electrified materials, or any other dangerous material in the residential, commercial, or mixed-use districts. Such material may be allowed in the industrial district in instances where the applicant demonstrates sufficient safety concern to warrant such materials to the Zoning Administrator or Planning Commission if the Zoning Administrator believes such review is needed.
- H. Consist of approved materials such as wood, brick, or decorative steel, or a combination thereof that enhance the aesthetics of the property and surrounding properties, except where otherwise noted in this Ordinance.

**1.7 MAIN BUILDING OR USE**

No more than one main building or principal use may be located on a parcel, except for groups of related industrial or commercial buildings, multiple family dwellings, or manufactured homes contained within a single, integrated complex with sharing parking and access, or in instances where the intent of the zoning district is to allow more than one building or use per parcel.

**1.8 PROJECTIONS INTO YARDS**

Architectural features may project into yards in the following circumstances.

- A. Architectural features including cornices, bay windows, eaves, gutters, chimneys without foundations, pilasters, and similar features may project no further than one (1) foot into a required front, rear, or side yard.
- B. An open, unenclosed, and uncovered porch, paved terrace, deck, balcony, or window awning may project no further than ten (10) feet into a required front yard, no further than fifteen (15) feet into a required rear yard, and shall not project into a required side yard. In no case shall a porch, deck, balcony, or awning be placed closer than five (5) feet to any front or rear lot line.
- C. Any porch, terrace, deck, or balcony which is enclosed shall meet the minimum setback requirements of the main building or accessory building to which it is attached.

### 1.9 BUILDING HEIGHT EXCEPTIONS

In all zoning districts, the following shall be exempted from the height restrictions set forth in this ordinance:

- A. Parapet walls not exceeding four feet in height
- B. Chimneys
- C. Elevator bulkheads
- D. Fire towers
- E. Grain elevators
- F. Silos
- G. Stacks
- H. Public monuments
- I. Church spires
- J. Roof structures housing necessary mechanical appurtenances

### 1.10 REQUIRED AREA OR OPEN SPACE

No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided, or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot, adjacent lots in common ownership, required yard, parking area, or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance and the Land Division Act, PA 288 of 1967 et seq. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.

### 1.11 MANUFACTURED HOMES

Any lot, when constructed with a manufactured home, shall be permitted only if it complies with all the following requirements:

- A. Inspection and Safety Standards. Manufactured homes must either be new or certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, the Michigan Mobile Home Commission, or any similar successor or replacement standards which may be used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector, to be fit for residential occupancy.



- B. Conformance with Township Codes. The dwelling unit and any accessory building shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the Township, provided, however, that where a dwelling unit is required by law to comply with any Federal or state standards for construction, and where such standards or regulations for construction are different than those imposed by Township codes, then such Federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
- C. Foundation. Each part of a dwelling unit reaching the ground shall be firmly attached to its own permanent foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials as required by the Building Code for on-site constructed single-family dwellings. If the dwelling unit is a mobile home, its foundation shall fully enclose the chassis and undercarriage. The towing mechanism must be enclosed.
- D. Installation. Manufactured homes must be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks. Mobile homes must be installed with the wheels removed.
- E. Horizontal Dimension. The dwelling unit shall have a minimum horizontal dimension of twenty-four (24) feet across any front, side, or rear elevation.
- F. Attached Steps. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first-floor entry of the dwelling unit and the adjacent grade.

#### 1.12 CONSTRUCTION BUILDINGS AND STRUCTURES

- A. Permitted Temporary Buildings and Structures. Temporary buildings may be utilized during construction for the storage of construction materials and for construction offices during a construction period as permitted herein. Temporary buildings for use incidental to construction work shall be removed within thirty (30) days after the completion or abandonment of the work. No structures shall be used for temporary dwelling purposes that do not comply with the requirements of this Ordinance or any applicable building codes, provided the Zoning Board of Appeals may allow variances on the size of temporary dwelling units. No garage or other accessory building or structure, travel trailer, basement, tent, barn, or partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purposes unless authorized by the issuance of a zoning permit by the Zoning Administrator pursuant to **section 1.20**.
- B. Removal of Temporary Buildings and Structures. All construction buildings, structures, and debris shall be removed from the lot within 15 days after an occupancy permit is issued by the Building Inspector for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot.

### 1.13 CONSTRUCTION TIME LIMITS

Once construction or installation of a building or structure has begun, such building or structure shall be finished and an occupancy permit shall be issued in accordance with State Construction Code as adopted by the Township.

### 1.14 KEEPING OF ANIMALS

- A. Household Pets. The keeping of household pets, including dogs, cats, fish, birds, hamsters, and other animals generally regarded as household pets, is permitted as an accessory use in any Residential District. No more than five dogs or cats four months of age or older, in any combination, shall be kept or housed in or at one dwelling unit.
- B. Livestock. The keeping of animals not normally considered household pets, including but not limited to horses, pigs, sheep, goats, cattle, pigeons, and poultry, is prohibited in all zoning districts, except Agricultural Residential (AG-R).

### 1.15 WATER AND SANITARY SERVICE

No structure for human occupancy shall be constructed, altered, or moved and used in whole or part for dwelling, business, industrial, or recreation purposes unless provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, and industrial waste, as applicable. Such installations and facilities, if not from an approved public system, shall conform with the minimum requirements for such facilities set forth by the State of Michigan Health Department, the Berrien County Health Department, and the Subdivision Regulations, Building Code, and other applicable Ordinances of New Buffalo Township.

### 1.16 CORNER LOTS

- A. Front Lot Lines. A corner lot shall have two front lot lines.
- B. General Provisions.
  - 1. Required setbacks from the front lot lines shall be front setbacks.
  - 2. Required setbacks from the remaining two lot lines shall be side setbacks.
  - 3. The width of a corner lot shall be determined by the entire length the front lot line on which the property's address is located.
- C. Industrial Zoning Districts. For a corner lot which is completely within the Industrial Zoning District, the setback along the secondary street(s) shall not be less than 30 feet. All other setbacks shall comply with the minimum setback requirements of the zoning district within which the lot is located.

## 1.17 PRIVATE STREETS

### 1.17.1 Intent and Purpose

The Township determines that it is in the best interest of the community to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that:

- A. Private streets will not be detrimental to the public health, safety, or general welfare.
- B. Private streets will not adversely affect the long-term development policies of New Buffalo Township.
- C. Private streets will be designed and constructed with adequate width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
- D. Private streets will be constructed in a manner that protects against or minimizes soil erosion and prevents damage to the lakes, streams, wetlands, and the natural environment of the Township.

### 1.17.2 Frontage and Access

- A. Frontage. All parcels utilizing a private street shall have frontage on the approved private road for a distance equal to or greater than the minimum lot width required for the District in which the parcel is located.
- B. Public Road Access. All private streets shall have access to a public road.
- C. Required Access. Any lot created shall have frontage upon a public or private street for a distance equal to the minimum lot width requirement in the zoning district where the property is located. Lots with frontage on a cul-de-sac shall be permitted to have less street frontage (but in no case less than 40 feet of such frontage), and further provided that the lot width at the front setback line (or rear setback line in case of waterfront lots) and beyond shall satisfy the minimum lot width requirements of the zoning district in which the lot is located.

### 1.17.3 Permits

- A. Township Board Permit. No entity shall construct, upgrade, or extend a private street after the effective date of this Ordinance without first having obtained a private road permit from the Township Board.
- B. Issuance of Building Permits. The Building Inspector shall not issue building permits for construction of any building or structure on lots or condominium units served by a private street until the private street is constructed to the extent required by this Ordinance and the Township.

- C. Soil and Sedimentation Control Permit. A Soil Erosion and Sedimentation Control permit shall be obtained from the Berrien County Drain Commission, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
- D. State Permits. All other required State of Michigan permits shall be obtained.
- E. Supplemental Township Review. The Township Board may elect to have all design and construction plans reviewed by the Township's attorney, engineer, or planner prior to consideration of the application for the private street permit.

**1.17.4 Submittal Requirements**

An application shall be submitted to the Township Clerk and shall contain the following:

- A. An application form and fee as established by the Township Board.
- B. A detailed written description of the development to be served by the private street.
- C. Ten (10) copies of a site plan, drawn to a scale of at least 1"= 100' and prepared by a registered engineer, showing all of the following: a general location sketch; the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto; existing and proposed curb cuts; and the location and distance to any public street with which the private street will intersect. The plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five or fewer parcels, and the Planning Commission waives said requirement in writing.
- D. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
- E. The location of all public utilities, including but not limited to water, sewer, telephone, gas, electricity, and television cable, to be located within the private street easement or within twenty feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
- F. The location of any lakes, streams, wetlands, drains, and slopes (over 20%) within the proposed easement or within 100 feet thereof.
- G. The location of any other buildings and structures located, or to be located, within 100 feet of the private street right-of-way.
- H. Name of private street.

**1.17.5 Procedure**

- A. After the application, along with all other required information, has been received by the Township Clerk, the Planning Commission shall set a date to hold a public hearing on the

- application. The Zoning Administrator shall send notice of the hearing in accordance with the Notice Requirements in **Section 10.8**.
- B. The Planning Commission shall consider the request based on the requirements of **Section 1.18.6**, as well as the approval standards of **Section 1.18.7**, and all other relevant provisions of this Ordinance. The Planning Commission shall make a recommendation to the Township Board to preliminarily approve, preliminarily approve with conditions, or deny the request.
  - C. The Township Board shall then review the application and such other information available to it through the public hearing or from any other sources, including recommendations or reports of the Planning Commission, and shall preliminary approve, preliminary approve with conditions, or deny the request, and state the basis for the decision and any conditions which should be imposed.
  - D. In order to request placement on the Township Board agenda for final approval, the applicant shall obtain and/or complete the following:
    - i. Eight (8) copies of recorded land survey and legal descriptions showing easements for underground electrical and communication services lines, drainage, sanitary sewer, private road and dedication of any public right-of-way.
    - ii. Two (2) copies of recorded road maintenance agreement.
    - iii. Two (2) copies of recorded deed restrictions and easements.
  - E. No petition for Private Street approval which has been denied shall be resubmitted for a period of one year from the date of denial, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

#### **1.17.6 Design Requirements**

The construction of private streets shall conform to the Berrien County Road Department construction standards for local roads, excepting pavement width and grade requirements and as otherwise provided in this Ordinance, as follows:

- A. No private street shall extend for more than 2,640 feet from the nearest public street right-of-way, as measured along the centerline of the private street, without a second direct access thereto being available from a public street.
- B. All private streets shall have a recorded permanent right-of-way and easement with a minimum width of at least 40 feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.
- C. The area in which the private street is to be located shall have a minimum cleared width of 28 feet, which clearing shall always be maintained.

- D. Road surface may be gravel but shall meet the MDOT 22A Gravel standard.
- E. Pavement widths shall conform to the following table. Any private street serving 5 or fewer parcels which is subsequently extended to serve more than 5 parcels shall be upgraded in its entirety to meet the pavement width requirements of this Section.

Standards	Serving 5 or Fewer Lots	Serving More Than 5 Lots
Pavement Width	18 feet	22 feet

- F. Any private street which terminates at a dead-end shall provide adequate turnaround for fire trucks and other emergency vehicles as determined by the Zoning Administrator with the Township Engineer. A “hammer head” turnaround or options other than a circular cul-de-sac may be considered. Private streets serving more than five (5) private properties shall require a cul-de-sac with a minimum radius of forty (40) feet or such turnaround adequate to handle fire trucks and other emergency turnarounds as are permitted by the Zoning Administrator and the Township Engineer.
- G. The road surface shall have a minimum crown of .02 foot per foot from the centerline of the private street to the outside edge thereof.
- H. A road shoulder at least two (2) feet wide, composed of six (6) inches of compacted gravel, shall be provided on each side of the private road surface and shall slope one-half inch per foot from the outside edge of the road surface to the toe of the slope.
- I. The maximum longitudinal road grade shall not exceed six percent (6%), provided that the Township Board may allow up to a ten percent grade if the applicant produces written justification, satisfactory to the Township Engineer, that an increase in the road grade will not adversely affect public safety and the design of the road system.
- J. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning, and travel in all directions at the posted speed limit is assured, as determined by the Township engineer. The minimum distance between intersections of public and / or private street rights-of-way shall not be less than 100 feet, as measured along the right-of-way line thereof.
- K. The private street shall be constructed with such storm water runoff, culverts, and drainage contours as are required by the Township Engineer and Berrien County Drain Commission to ensure adequate drainage and runoff.
- L. The method and construction technique used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township engineer and any other agency having jurisdiction thereof.
- M. The private street shall be given a name, and street signs shall be installed in accordance with the standards and approval of the Berrien County Road Department. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with the public road) in letters at least three inches high. Private streets serving

two or more dwellings shall have a standard stop sign where the private street abuts a public street or another private street.

N. The private street shall meet all requirements of the BOCA National Fire Prevention Code.

**1.17.7 Approval Standards**

A. Prior to final approval of a private street permit application, the Township Board shall determine the following:

1. The private street will not be detrimental to the public health, safety, or general welfare.
2. The private street will not adversely affect the use of land.
3. The private street is designed and constructed with width, surface, and grade measurements that assure safe passage and maneuverability of private and public safety vehicles.
4. The private street is constructed in a manner that minimizes soil erosion and prevents damage to the lakes, streams, wetlands, and the natural environment of the Township.
5. The private street can provide future connection to existing or proposed public rights-of-way or private streets.
6. Maintenance of the private street has been adequately provided for.

B. The Zoning Administrator may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.

**1.17.8 Maintenance and Repairs**

A. All private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township. They shall be readily accessible to, and usable by, emergency vehicles in all types of weather.

B. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or property owners' association where one exists.

C. The applicant(s) / owner(s) of the proposed private street right-of-way or private street shall provide the Township Board with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein (if less than five lots) or a property owners' association (if five or more lots) which shall provide that the private street shall be regularly maintained, repaired, and snow plowed so as to assure that the private

street is safe for travel at all times and the cost thereof paid. The maintenance agreement shall at a minimum contain the following:

1. A method of initiating and financing of such road and / or easements in order to keep the road in a reasonably good and usable condition.
  2. A workable method of apportioning the costs of maintenance and improvements.
  3. A notice that no public funds of the Township of New Buffalo are to be used to build, repair, or maintain the private road.
  4. Easements to the public for purposes of emergency and other public vehicles for necessary public services.
- D. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement, and that said agreement shall be recorded and shall run with the land. Once approved by the Township, records shall be furnished to the Township prior to final approval of the private street.

#### 1.17.9 Performance Guarantee

The Township Board may, as a condition of the private street construction permit, require the applicant to provide a performance guarantee in accordance with the provisions of **Section 10.6**, and waiver of liability.

#### 1.17.10 Inspections/Certificate of Compliance

- A. Upon completion of construction of the private street, the Township Building Official or designee shall inspect the completed construction to determine whether it complies with approved plans, specifications, permits, and this Ordinance.
- B. The applicant(s), at the applicant(s)'s expense, shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit.
- C. If the completed private street does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable time period within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in Section 10.10 and the New Buffalo Township Civil Infraction Ordinance including, but not limited to injunctive relief.



**1.17.11 Fees**

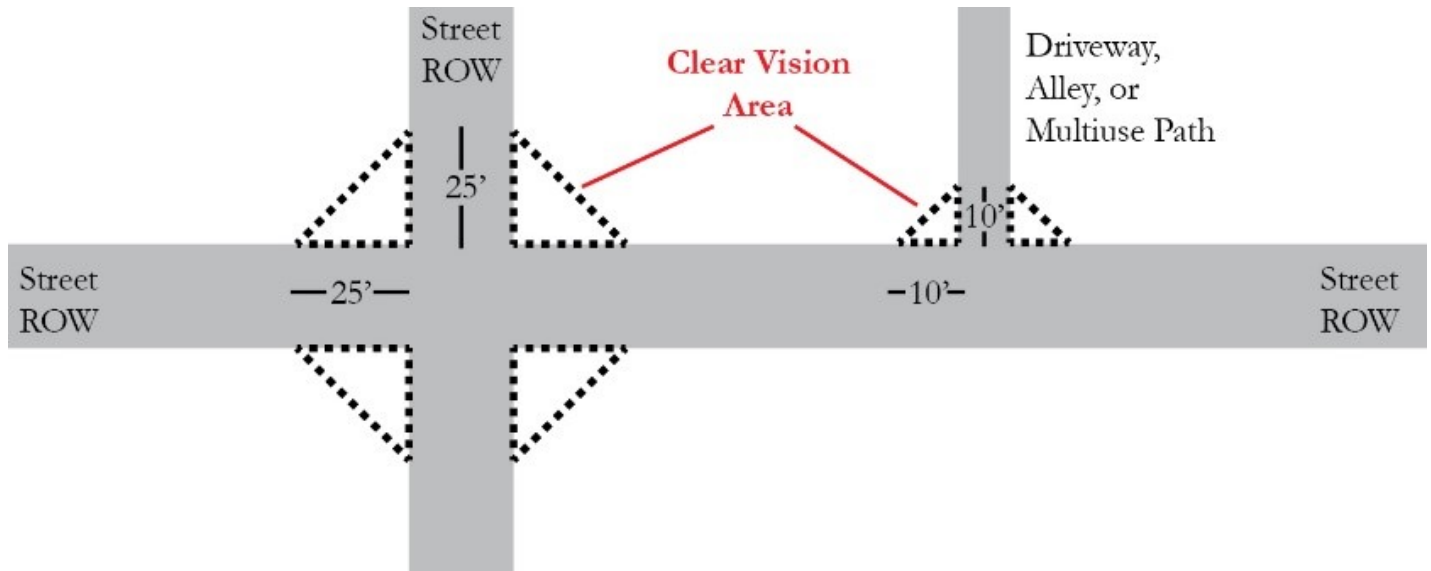
Fees for the permits required hereunder shall be set by the Township Board from time to time by resolution. Additionally, the Township Board may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections. All costs shall be paid prior to the granting of final approval, with the balance of escrow account returned upon final approval. The fees shall not exceed the reasonable costs of providing the services.

**1.17.12 Indemnification**

The applicant(s) / owner(s) of the private street agree that by applying for or securing a permit to construct the private street, they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, or replace the private street.

**1.18 CLEAR VISION AREAS**

- A. All streets, shared-use pathways, right-of-way easements, alleys, or driveways that intersect a street shall establish a clear vision area in which no plantings, signs, fences, or structures shall be installed or maintained between a height of three (3) and ten (10) feet above grade. Vegetation is permitted so long as its height at maturity shall not be more than 36 inches.
- B. The clear vision area shall be a triangular area formed at the intersection with any street by a straight line drawn between right-of-way or easement lines at the following distances.
  - 1. Street. Twenty-five (25) feet
  - 2. Shared-Use Pathway. Ten (10) feet
  - 3. Driveway. Ten (10) feet
  - 4. Alley. Ten (10) feet



**1.19 TEMPORARY DWELLINGS**

- A. The Zoning Administrator may issue a permit to an individual to park and occupy a temporary dwelling in any District provided that:
  - 1. A building permit has been issued to the property owner applying for the temporary dwelling permit for the construction of a permanent residence.
  - 2. The temporary dwelling is connected to an approved water and sanitary system.
  - 3. The temporary dwelling is sufficiently secured to the ground to prevent overturning through the actions of high winds or other natural conditions.
- B. The Zoning Administrator shall determine the required size of the dwelling and placement on the lot. Such determination shall be consistent with the standards of Item D below.
- C. Upon applying for a temporary dwelling approval, the applicant shall pay a fee as determined by the Township Board. All original temporary dwelling permits issued in conjunction with the construction of a permanent dwelling shall be limited to a period of one (1) year. If the permanent residence is not complete within the one-year period, one (1) additional six-month extension may be permitted by the Zoning Administrator only for the purpose of completing the residence.
- D. Any authorization for temporary uses or structures shall meet the following standards:
  - 1. That all applicable requirements of this Section are met;
  - 2. That there will be no unsanitary conditions or other detrimental effects upon the property, occupants, or adjacent properties;

3. That, in the case of occupancy during construction, the use or structure is reasonably necessary for the convenience and safety of the construction proposed;
  4. That the use or structure does not adversely impact the nature of the surrounding neighborhood;
  5. That access to the use, area, or structure is located at the least obtrusive point on the property.
- E. The Zoning Administrator may attach reasonable conditions to temporary uses or structures to ensure that the standards of this Section are met.
- F. All temporary dwellings, buildings, and uses shall be removed from the premises following the expiration of the permit and any extensions, upon completion of the permanent building or structure, within 30 days after an occupancy permit has been issued, or within 30 days after the building permit for the permanent residence has expired.

## 1.20 LAND DIVISION

### 1.20.1 Limitations

- A. No parcel of ten (10) acres or less may be divided into more than four (4) parcels, including any previous divisions of the parent parcel or tract, except as permitted as a platted subdivision, planned unit development, or site condominium. After a division, any remaining right to further divisions may be transferred from the parent parcel to the new parcel by giving notice to the assessor on the form published by the State Tax Commission (General Property Tax Act, Michigan Public Act 206 of 1893, MCL 211.27A). Parcels over ten acres must meet the requirements of the Michigan Land Division Act (Michigan Public Act 288 of 1967, MCL 560.101; MSA 26.430 (101) et seq.) as amended.
- B. Each parcel created by a land division must have a depth of not more than four times its width. This requirement does not apply to resulting parcels larger than ten (10) acres or to the remainder of the parent parcel or tract retained by the proprietor. The Zoning Board of Appeals may grant a variance from this depth requirement based on a finding of unusual topographical conditions.

### 1.20.2 Approval

- A. All land divisions and boundary reconfigurations except subdivisions must be approved by the assessor or other Township Board designee. A complete application for a land division shall be approved if it meets the following conditions as well as any other conditions as required under the Land Division Act:
1. Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and compliance with the limitations in **Section 1.21.1**.

2. Each resulting parcel is accessible and has an area and width not less than those required by this Ordinance.
  3. The division meets all the requirements of **Section 1.21.1**.
  4. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
  5. A fee has been paid as set by the Township Board. The fee shall not exceed the reasonable costs of providing the services.
- B. Approval of a land division is not a determination that the resulting parcels comply with other provisions of this Ordinance. A parcel not in full compliance with this Ordinance may be unbuildable.

### 1.21 HIGH RISK EROSION AND CRITICAL DUNE AREAS

- A. All critical dune and high risk erosion areas designated as such by the State of Michigan, shall be regulated by the Michigan Department of the Environment, Great Lakes, and Energy ("EGLE") and subject to any applicable State requirements and laws. No building permit or approval under this Ordinance shall be issued until evidence of EGLE approval has been provided to the Township.
- B. Persons building on the property adjoining Lake Michigan are advised to contact the Michigan Department of the Environment, Great Lakes, and Energy to determine if the property meets the requirements of the Natural Resources and Environmental Protection Act.
- C. In the areas designated "Critical Dunes" or "High Erosion," New Buffalo Township retains the right to regulate lot size, frontage, structures, driveways, setbacks, and all other items specified in this ordinance.

### 1.22 FLOODPLAIN STANDARDS

#### 1.22.1 General Standards For Flood Hazard Reduction

- A. Development within a flood hazard area, including the erection of structures permitted in the Floodplain Overlay District, shall not occur except upon issuance of a zoning permit in accordance with the requirements of this ordinance and the following standards:
  1. Applicant must meet both the requirements of the Floodplain Overlay District and the requirements of the underlying zoning district.
  2. All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a floodplain permit, approval, or letter of No Authority from EGLE under authority of Act 245, of the Public Acts of 1929, as amended. Where a development permit cannot be issued prior to the issuance of a zoning permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

- B. The use pattern and structure proposed to accomplish said use shall be so designed as not to reduce the water impoundment capacity of the floodplain or significantly change the volume or speed of the flow of water. Specific base flood elevation standards:
1. On the basis of the most recent available base flood elevation data all new construction and substantial improvements shall have the lowest floor, including basements, elevated at least one foot above the flood level; or for nonresidential structures, be constructed such that at or below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards are met and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the structure. Such certification shall be submitted as provided in this Ordinance and shall indicate the elevation to which the structure is flood proofed.
  2. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. The most recent flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.
  3. All new construction and substantial improvements within a flood hazard area, shall:
    - a. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
    - b. Be constructed with materials and utility equipment resistant to flood damage;
    - c. Be constructed by methods and practices that minimize flood damage.
  4. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
  5. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
  6. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
  7. Adequate drainage shall be provided to reduce exposure to flood hazards.

8. The flood carrying capacity of any altered or relocated watercourses not subject to state or federal regulations shall be designed to ensure flood carrying capacity is maintained.
- C. New Buffalo Township shall incur no liability whatsoever by permitting any use of a *building* within the floodplain within the Township.

### 1.22.2 Delineation of the Floodplain Overlay District

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official New Buffalo Township Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled "The Flood Insurance Rate Map", dated December 4, 1979, as updated, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the Flood Boundary and Floodway Map. The Study and accompanying maps are adopted by reference, appended, and declared to be part of this Ordinance. The term flood hazard area as used in this Ordinance shall mean the flood hazard area zone and the term floodway shall mean the designated regulatory floodway.
- B. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within the flood hazard area zone.

### 1.23 ADDRESS IDENTIFICATION

New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than four (4) inches high with a minimum stroke width of one half (1/2) inch. Where required by the fire code official or Berrien County, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from public way, a monument, sign, or other means shall be used to identify the structure. Address identification shall be maintained.

### 1.24 RESTORATION OF UNSAFE BUILDINGS AND BARRIER FREE MODIFICATION

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official. Nothing in this Ordinance shall prevent the unlimited modification of a building only as may be necessary to comply with barrier-free requirements and the Americans with Disabilities Act.

**1.25 RELOCATION OF BUILDINGS**

The relocation of a building to a different location in the Township shall be treated the same as erection of a new building, and all applicable provisions, regulations, and required permitting shall be observed.

**1.26 JUNKED CARS, BOATS, AND VEHICLES**

A motor vehicle which is unlicensed or can no longer propel itself; a boat which is no longer seaworthy; a motor vehicle, boat or any other vehicle which is partially dismantled, wrecked, junked, or discarded; or any parts thereof, shall not be parked, stored, or placed outside of a fully enclosed building for more than five (5) days.

**1.27 VOTING PLACE**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a public election.

**ARTICLE 2: ZONING DISTRICTS AND MAP**  
**2.1 Zoning Districts Established**  
**2.2 Intent of Established Zoning Districts; Schedule of Dimensional Requirements**  
**2.3 Zoning Map**

**2.1 ZONING DISTRICTS ESTABLISHED**

For the purpose of this ordinance, the Township of New Buffalo is hereby divided into the following districts:

- AG-R:** Agricultural Residential District
- R-1:** Low-Density Residential District
- R-2:** Medium-Density Residential District
- MR:** Manufactured Residential District
- C-1:** General Commercial District
- C-2:** Highway Commercial District
- HCD:** Harbor Country Drive District
- UPV:** Union Pier Village
- UPC:** Union Pier Corridor
- I:** Industrial District
- F-1:** Floodplain Overlay District

**2.2 INTENT OF ESTABLISHED ZONING DISTRICTS; SCHEDULE OF DIMENSIONAL REQUIREMENTS**

The intent and purpose of each established zoning district is described in the subsections below. This Section establishes regulations governing lot size, required yards, setbacks, building height, and development density for each zoning district. No building shall be erected, nor shall an existing building be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations established for the district in which the building or use is located. A portion of a lot used to comply with the regulations in this Section with respect to one building or use shall not be simultaneously used to comply with the regulations with respect to another building or use.



### 2.2.1 Agricultural Residential District (AG-R)

The Agricultural Residential district is designed to be the lowest-density residential designation in New Buffalo Township. The zone is intended to promote built patterns consistent with the rural character of the Township’s eastern extent, and to preserve these landscapes by limiting development pressure from uses that are not consistent with these attributes. Development is situated on large lots and is primarily limited to single-family, detached housing. Agricultural uses including livestock operations, dairy farming, horticulture, and crop cultivation are also permissible under the designation. Uses complementary to these residential and agricultural purposes, including greenhouses and nurseries, roadside stands for the sale of products grown on site, public parks, and day care or adult foster care are also permitted. Access to properties is through rural county roads designed primarily for automobile travel.



AGRICULTURAL RESIDENTIAL (AG-R)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	150'
Minimum Lot Area	2 acres
Maximum Lot Coverage	20%
<b>Main Building</b>	<b>Standard</b>
Front Setback	30'
Side Setback	15'
Rear Setback	50'
Maximum Height	35'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Side or rear yard; front yard only if lot has a minimum of 250 feet of depth and that an accessory building setback is equal to at least one-half the distance from the front lot line and the main building.
Front Setback	At least one-half distance from front lot line to the main building.
Side Setback	15'
Rear Setback	50'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Front, side, or rear yard
Front Setback	10'
Side Setback	10'
Rear Setback	10'

2.2.2 Low-Density Residential District (R-1)

The Low-Density Residential category is intended to provide a low-density residential setting consistent with New Buffalo Township’s small-town neighborhoods. Development in this zone is largely limited to single-family detached housing; permitted lot areas and widths are smaller than in the Agricultural-Residential district. Single-family residential housing constructed in the form of site condominium development is also permitted. Complementary non-residential uses that further the creation of stable neighborhoods, including family day care, adult foster care, and parks, playgrounds, and open space, are also permitted in the zone. Access to residential properties is primarily through rural county roads or from streets in residential subdivisions.



LOW DENSITY RESIDENTIAL (R-1)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	100'
Minimum Lot Area	15,000 sq. ft.
Maximum Lot Coverage	35%
<b>Main Building</b>	<b>Standard</b>
Front Setback	30'
Side Setback	10'
Rear Setback	25'
Maximum Height	35'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	25'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Front, side, or rear yard
Front Setback	10'
Side Setback	10'
Rear Setback	10'

**2.2.3 Medium-Density Residential District (R-2)**

The Medium-Density Residential District is intended to provide a high density, single, two family, and multiple family residential living environment and to foster stable, high quality neighborhoods while providing for additional variety in housing opportunities and choices. The High Density District is also intended to encourage compact, pedestrian friendly development along with affordable housing options. Non-residential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

MEDIUM-DENSITY RESIDENTIAL (R-2)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	66'
Minimum Lot Area	8,712 sq. ft.
Maximum Lot Coverage	40%
<b>Main Building</b>	<b>Standard</b>
Front Setback	30'
Side Setback	7'
Rear Setback	25'
Maximum Height	40'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Side or rear yard
Front Setback	N/A
Side Setback	7'
Rear Setback	25'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Front, side, or rear yard
Front Setback	10'
Side Setback	10'
Rear Setback	10'

**2.2.4 Manufactured Residential District (MR)**

Manufactured Residential District (MR)  
 The Manufactured Residential zoning designation is intended to provide and preserve residential land for occupation by manufactured housing. This is consistent with the community’s goal to provide diverse housing types and styles available at variety of price points. Uses in the designation are, therefore, largely limited to manufactured homes located in state-licensed parks, and other supportive land uses including day care and adult foster care. The Manufactured Residential zone is further intended to ensure that mobile home parks are developed with neighborhood elements, including sidewalks, vegetation, adequate parking, and porches.



MANUFACTURED RESIDENTIAL (MR)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	100
Minimum Lot Area	8,000 sq. ft.
Maximum Lot Coverage	30%
<b>Main Building</b>	<b>Standard</b>
Minimum Front Setback	30'
Minimum Side Setback	10'
Minimum Rear Setback	20'
Maximum Height	30'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'

2.2.5 General Commercial District (C-1)

The intent of the General Commercial district is to encourage a mixed-use environment along the Township’s major vehicular corridors. The wide variety of commercial uses historically permitted along Red Arrow Highway and US-12, including office, retail, and personal and professional service establishments are allowed. These commercial uses are generally intended to meet the needs of residents, local neighborhoods, and other surrounding communities. A wide range of multifamily residential formats, including townhomes, duplexes/triplexes, and apartments are also permitted as a special land use. Mixed commercial and multifamily residential buildings and lots are allowed and encouraged to promote a compact live-work setting. Multi-floor construction is also permitted and encouraged to promote mixed commercial and residential buildings and walkable built patterns.

GENERAL COMMERCIAL (C-1)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	100'
Minimum Lot Area	15,000 sq. ft.
Maximum Lot Coverage	90%
<b>Main Building</b>	<b>Standard</b>
Minimum Front Setback	30'
Minimum Side Setback	10'
Minimum Rear Setback	10'
Maximum Height	40'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Front, side, or rear yard
Front Setback	10'
Side Setback	10'
Rear Setback	10'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Front, side, or rear yard
Front Setback	10'
Side Setback	10'
Rear Setback	10'

2.2.6 Highway Commercial District (C-2)

The Highway Commercial district is designed to promote mixed commercial and residential development near the Township’s freeway access points. The community’s range of retail, entertainment, and commercial service uses should be concentrated along Harbor Country Drive and other major roads. With the district’s location adjacent to I-94, commercial uses are intended to serve guests and visitors to the Township in addition to local needs. The same range of multifamily residential uses permitted under the C-1 designation are permitted although lots are slightly larger in size and densities are lower to promote convenient access to and from the I-94. Multi-floor construction is allowed and encouraged. Pedestrian access is promoted through design and landscaping standards.

HIGHWAY COMMERCIAL (C-2)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	100'
Minimum Lot Area	20,000 sq. ft.
Maximum Lot Coverage	90%
<b>Main Building</b>	<b>Standard</b>
Minimum Front Setback	30'
Minimum Side Setback	10'
Minimum Rear Setback	10'
Maximum Height	40'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Front, side, or rear yard
Front Setback	10
Side Setback	10'
Rear Setback	10'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Front, side, or rear yard
Front Setback	10'
Side Setback	10'
Rear Setback	10'



2.2.7 Harbor Country Drive District (HCD)

The Harbor Country Drive district is designed to promote diverse business and residential development in a compact, pedestrian-oriented setting, and at the highest densities in the Township. The community’s range of retail, entertainment, and commercial service uses should be concentrated between I-94 and the City. With the district’s location adjacent to the interstate, commercial uses are intended to serve guests and visitors to the

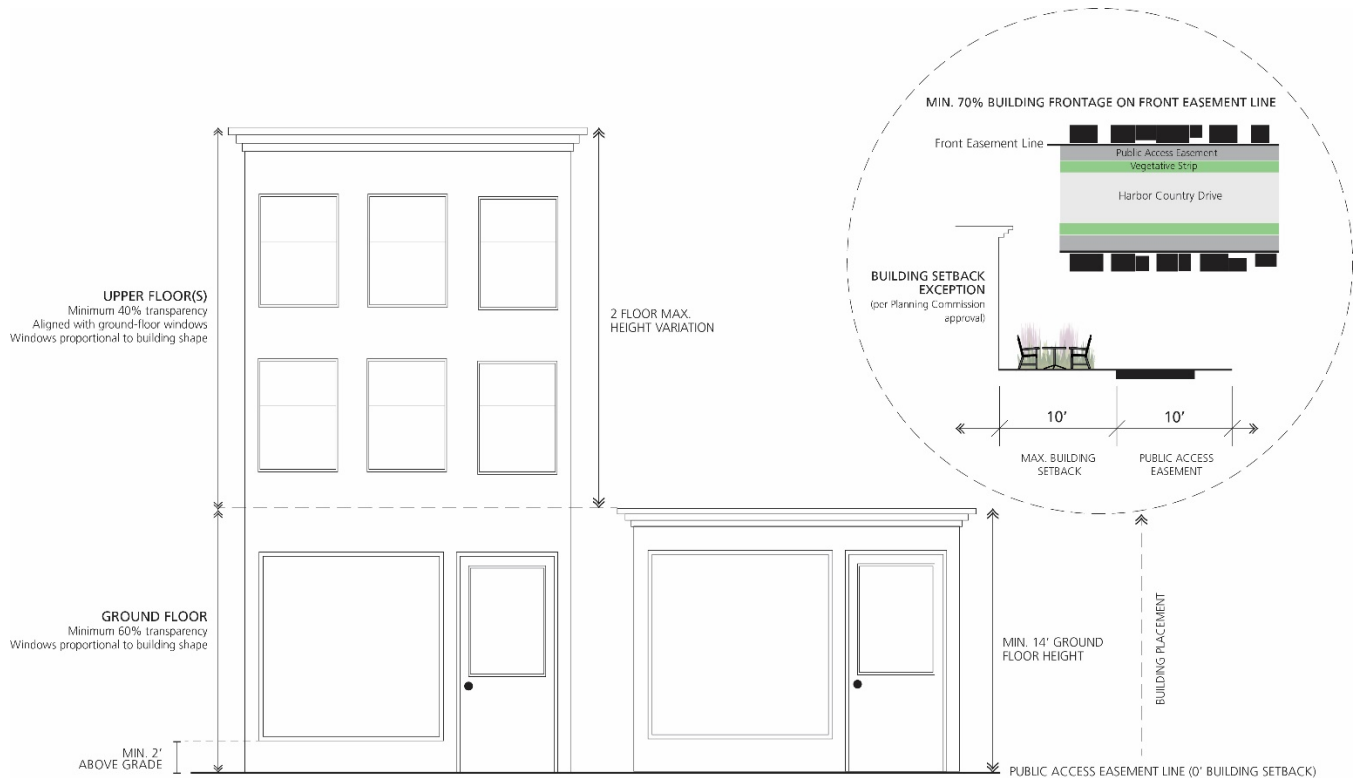
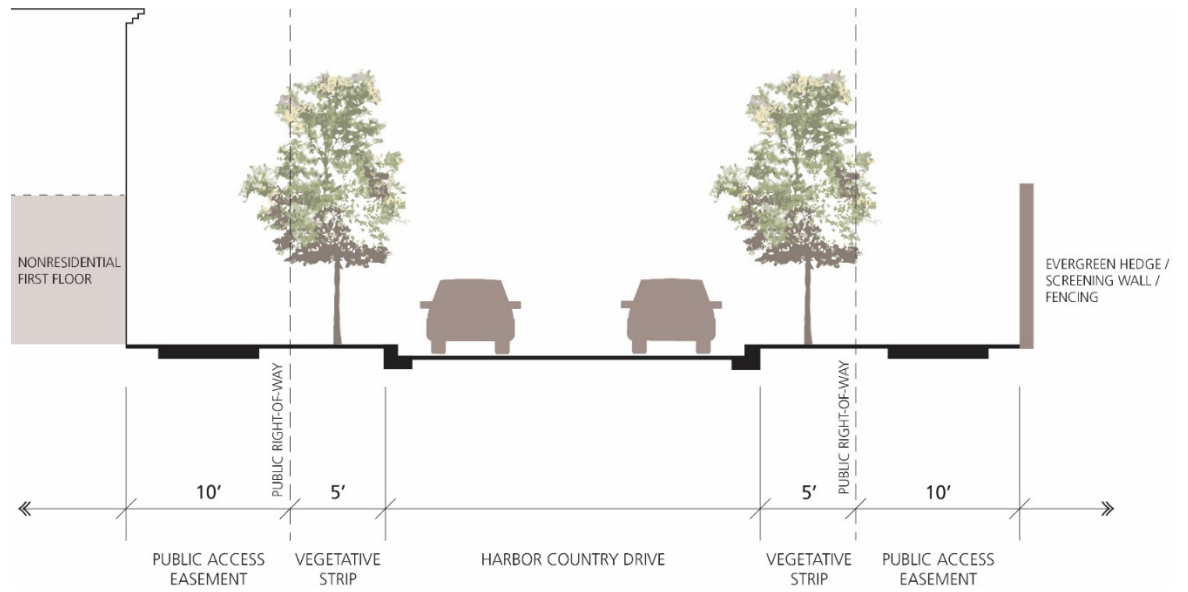


Township in addition to local needs. The same range of multifamily residential uses permitted in the C-1 and C-2 designations are permitted by right and at considerably higher densities. Mixed commercial and residential buildings and lots are permitted to encourage compact live-work settings and high-density built patterns and Multi-floor construction is encouraged. In special recognition of this area’s importance as an activity center in the community, additional provisions regulate landscaping standards, architectural features, and building height and placement to ensure the orderly and attractive development of properties.

HARBOR COUNTRY DRIVE DISTRICT (HCD)	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	70'
Minimum Lot Area	4,000 sq. ft.
Maximum Lot Coverage	100%
<b>Main Building</b>	<b>Standard</b>
Minimum Front Setback	0' - up to 10' allowed when the setback incorporates specified streetscape amenities
Minimum Side Setback	0'
Minimum Rear Setback	0'
Maximum Height	40'
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'

DEVELOPMENT STANDARDS	
Uses	Standard
First Floor	<ul style="list-style-type: none"> <li>• May not be used for residential purposes</li> <li>• Only structures on properties with side street addresses may have residential first floors.</li> </ul>
Site Design	Standard
Vegetative Strip	<ul style="list-style-type: none"> <li>• Vegetative strip at least five (5) feet in width and planted with vegetation native to Berrien County, as determined by the Berrien County Conservation District, constructed in the public right-of-way parallel to Harbor Country Drive between the curb and the subject property</li> <li>• Deciduous trees native to Berrien County at intervals of no greater than forty (40) feet along the vegetative strip</li> </ul>
Public Access Easement	<ul style="list-style-type: none"> <li>• Public access easement of at least ten (10) feet in width extending parallel to Harbor Country Drive between the right-of-way and the principal structure for the construction of a widened sidewalk.</li> </ul>
Interior Sidewalks	<ul style="list-style-type: none"> <li>• In addition to the requirements of <b>Section 4.2.7</b>, sidewalks must be provided in the right of way of streets extending along any side and rear lot lines or through the interior of a site. Such sidewalks shall conform with the standards in <b>Section 4.2.7 C</b>.</li> </ul>
Building Placement	<ul style="list-style-type: none"> <li>• Streets intersecting Harbor Country Drive shall constitute the preferred front lot line, with buildings arranged along these “interior” streets to form public spaces and commercial nodes, as illustrated in the New Buffalo Township Corridor Authority Vision document.</li> <li>• Minimum of seventy percent (70%) of the building’s frontage must adjoin the front lot line.</li> <li>• Planning Commission may allow a setback of up to ten (10) feet for the balance of the building to allow outdoor café seating, plazas, vegetative buffers, and/or landscaped areas that enhance the streetscape and facilitate pedestrian access.</li> </ul>
Building Design	Standard
Materials	<ul style="list-style-type: none"> <li>• Building facades must contain at least seventy-five percent (75%) of materials that are primarily natural products, conveying permanence such as brick, decorative masonry block, stone, or beveled wood siding.</li> </ul>
Height	<ul style="list-style-type: none"> <li>• The ground floor height of a structure must be a minimum of fourteen (14) feet.</li> <li>• Total building height shall not vary from the height of adjoining buildings by more than two (2) floors.</li> </ul>
Entrances	<ul style="list-style-type: none"> <li>• Principal pedestrian entrance to all buildings shall be located on the front lot line. Additional access may be provided from Harbor Country Drive.</li> <li>• Principal pedestrian entrances shall be directly accessible from a public sidewalk.</li> <li>• Principal entrances should have details that enhance the prominence of the entrance, such as peaked roof forms, porches, overhangs, archways, larger door openings, accent colors, tile, moldings, and pedestrian-scale lighting.</li> <li>• Entrances abutting a right-of-way or nonmotorized path must be inset a minimum of three (3) feet from the building wall to ensure that the door zone does not conflict with users of the right-of-way.</li> </ul>
Transparency	<ul style="list-style-type: none"> <li>• Ground floor windows must be composed of clear or lightly tinted glass; mirrored and heavily tinted materials are not permitted.</li> <li>• Ground floor windows facing a public right-of way must be a maximum of two (2) feet above the adjacent exterior grade.</li> <li>• Minimum of sixty percent (60%) of the street level façade facing a public right-of-way must be used for transparent window space.</li> <li>• Minimum of forty percent (40%) of the upper level façade should be windows.</li> </ul>





2.2.8 Union Pier Districts

A. Union Pier Village (UPV)

The Union Pier Village District is intended to promote a pedestrian-friendly environment in the core of the Union Pier community. Small lot widths allow the highest built densities in the Township, while zero building setback requirements allow buildings to adjoin public sidewalks and promote a pedestrian character. The district also requires the provision of nonmotorized paths and streetscaping amenities to ensure that the paths are safe and convenient for all users. These nonmotorized requirements vary between the context of Red Arrow Highway, where vehicles move more rapidly, and areas with frontage on side streets, where traffic speeds are slower. The Union Pier community is split between New Buffalo and Chikaming Township and so many of these standards match the requirements for Union Pier in Chikaming Township, in order to promote cohesive built patterns. A wide variety of commercial service uses, especially food and beverage, and retail are promoted to serve residents and visitors. Second-floor residential is also allowed to enhance the viability of properties and to ensure the district’s vibrancy.

Union Pier Village (UPV)	
Lot Occupation	Standard
Minimum Lot Width	25'
Minimum Lot Area	2,500 sq. ft.
Maximum Lot Coverage	100%
Main Building	Standard
Minimum Front Setback	0'
Minimum Side Setback	0' 5' when adjacent to residentially zoned property
Minimum Rear Setback	Sufficient for parking requirements and any required landscaping
Maximum Height	40' or 3 floors
Accessory Building	Standard
Permitted Location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'
Setback From Buildings on Lot	10'
Maximum Height	30' or two floors
Parking	Standard
Permitted location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'

**B. Union Pier Corridor (UPC)**

The Union Pier Corridor District is intended to promote a diverse and vibrant environment in the peripheral areas of the Union Pier Community’s core along Red Arrow Highway. Lot widths are relatively narrow and sizes are relatively small to promote a diverse range of uses within a short walk, although they are larger than in the Union Pier Village district to accommodate larger-scale development and serve the corridor’s mixed pedestrian and automobile traffic. Properties are subject to development standards that require the provision of nonmotorized transportation features and lighting standards to ensure that the amenities are safe and convenient for all users. The Union Pier community is split between New Buffalo and Chikaming Township and so many of these standards match the requirements for Union Pier in Chikaming Township, in order to promote cohesive built patterns across the Townships. A variety of commercial service uses are allowed in the district, while a greater range of multifamily residential and civic uses is allowed than in the Union Pier Village to take advantage of the larger lots.

<b>Union Pier Corridor (UPC)</b>	
<b>Lot Occupation</b>	<b>Standard</b>
Minimum Lot Width	70'
Minimum Lot Area	4,000 sq. ft.
Maximum Lot Coverage	80%
<b>Main Building</b>	<b>Standard</b>
Minimum Front Setback	0'
Minimum Side Setback	10'
Minimum Rear Setback	Sufficient for parking requirements
Maximum Height	40' or 3 floors
<b>Accessory Building</b>	<b>Standard</b>
Permitted Location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'
Setback From Buildings on Lot	10'
Maximum Height	30' or two floors
<b>Parking</b>	<b>Standard</b>
Permitted location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'

**C. Union Pier Districts Site Standards**

1. Development Standards. The Site Development Standards is to ensure that development in the Union Pier Community promotes a lively, compact, and diverse business setting and encourages travel for both motorists and pedestrians. First floors are encouraged to be used for commercial purposes,

especially in the core area of the Union Pier Village District. Both districts also require that bicycling and pedestrian infrastructure, either in the form of a nonmotorized path or sidewalk be provided for to promote diverse travel options. Buildings should be constructed with high-quality and materials and should be constructed at or close to front property lines.

	UNION PIER DISTRICTS	
	UNION PIER VILLAGE (UPV)	UNION PIER CORRIDOR (UPC)
<b>Uses</b>	<b>Standard</b>	
First Floor	<ul style="list-style-type: none"> <li>Must be used for commercial purposes. Commercial first floors shall extend for the entire width of the building as viewed from the adjoining public street.</li> </ul>	<ul style="list-style-type: none"> <li>Residential may be allowed in the rear 50% of the floor, however the front 50% must be for commercial use.</li> <li>Commercial first floor shall extend for the entire width of the front of the building as viewed from the adjoining public street.</li> </ul>
<b>Site Design</b>	<b>Standard</b>	
Nonmotorized Transportation	<ul style="list-style-type: none"> <li>Sidewalks shall be constructed along roads other than Red Arrow Highway. Sidewalks must be a minimum of five (5) feet wide; be constructed of concrete; and have a minimum thickness of four (4) inches except in areas crossed by vehicular traffic, which shall have a minimum of six (6) inches. Pervious pavement is allowed and encouraged.</li> <li>The owner of the property which fronts on the sidewalk shall be responsible for snow and debris removal.</li> </ul>	
Building Placement	<ul style="list-style-type: none"> <li>A Minimum of seventy percent (70%) of the building’s frontage must adjoin the front easement line.</li> <li>Planning Commission may allow a setback of up to ten (10) feet for the balance of the building to allow outdoor café seating, plazas, vegetative buffers, and/or landscaped areas that enhance the streetscape and facilitate pedestrian access.</li> </ul>	
<b>Building Design</b>	<b>Standard</b>	
Materials	<ul style="list-style-type: none"> <li>Building facades must contain at least seventy-five percent (75%) of materials which are primarily natural products and that convey permanence such as brick, decorative masonry block, stone, or beveled wood siding.</li> <li>Building design shall be unique and substantially original. The use of standardized building prototypes is discouraged and a structure’s appearance may not be primarily an expression of economy, expediency, or efficiency.</li> </ul>	
Height	<ul style="list-style-type: none"> <li>The ground floor height of a structure must be a minimum of fourteen (14) feet.</li> </ul>	
Entrances	<ul style="list-style-type: none"> <li>Secondary public entrances are permitted on the rear or side façade, including additional access for uses in a multi-tenant building.</li> <li>Principal entrances should have details that enhance the prominence of the entrance, such as peaked roof forms, porches, overhangs, archways, larger door openings, accent colors, tile, moldings, and pedestrian-scale lighting.</li> </ul>	
	<ul style="list-style-type: none"> <li>Each commercial first floor unit shall have a principal pedestrian entrance located on a front lot line and directly accessible from a public sidewalk.</li> <li>Front entrance must be inset a minimum of three (3) feet from the front building wall to ensure that the door zone does not</li> </ul>	

	conflict with users of the right-of-way.	
Transparency	<ul style="list-style-type: none"> <li>• Ground floor windows facing a public right-of way must be a maximum of two (2) feet above the adjacent exterior grade.</li> <li>• Minimum of sixty percent (60%) of the street level façade facing a public right-of-way must be used as transparent window space.</li> <li>• Minimum of forty percent (40%) of the upper level façade should be used as transparent window space.</li> </ul>	

2. Landscaping Standards. The purpose of the landscaping standards in this section are to ensure the orderly and attractive development of the Union Pier area and to promote uniform design between the portions of the Union Pier community located in New Buffalo and Chikaming Townships. The landscaping standards in this section shall be required in addition to the landscaping standards in **Section 4.3**. Where the provisions of this section overlap with provisions in **Section 4.3**, the more stringent provision shall apply.

Union Pier Districts	
Item	Standard
General Site Landscaping	<ul style="list-style-type: none"> <li>• One (1) deciduous or evergreen tree per 3,000 square feet or portion thereof of unpaved open area.</li> <li>• Shrubs may be substituted for up to 50% of the total number of required trees at a rate of eight (8) shrubs for each tree.</li> <li>• All unpaved portions of a property shall be planted with grass, ground cover, shrubs, or other suitable live plant material. Such plant material shall extend to the edge of any abutting paved area, roadway, or gravel shoulder, except that trees and shrubs shall be set back a minimum of ten (10) feet from the edge of any uncurbed paved area, roadway, gravel shoulder, or other unpaved public or private right of way. The front yard of all non-residential uses shall be planted with sod or hydro seed.</li> </ul>
Parking Lot Landscaping	<p>All off-street parking areas with ten (10) or more parking spaces shall provide tree islands in the parking lot design.</p> <ul style="list-style-type: none"> <li>• Single-loaded aisles shall have one (1) tree island containing one (1) canopy tree at both ends of each row, with minimum dimensions of nine (9) feet by eighteen (18) feet.</li> <li>• Double-loaded aisles shall have one (1) tree island containing two (2) canopy trees at both ends of each row, with minimum dimensions of twelve (12) feet by thirty-six (36) feet.</li> <li>• Tree islands shall be surrounded by a concrete curb at a height of six (6) inches. In addition to the required canopy tree(s), the interior of the islands shall be vegetated with turf and may be used for stormwater management, however, snow storage is prohibited. Any tree island used for stormwater must have appropriate curb cuts in order to allow the flow of stormwater into the island from parking areas.</li> </ul>
Land Use Buffer Screening	<ul style="list-style-type: none"> <li>• Screening in the form of a landscaped greenbelt, berm, or wall as specified in this section shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes and/or where loading areas would be visible from residential districts.</li> </ul>

Union Pier Districts	
Item	Standard
Parking Lot Screening	<ul style="list-style-type: none"> <li>Landscaping shall be required between parking lots and roads to soften the view of the parked cars from the roads. The minimum width of the planting strip shall be fifteen (15) feet. The planting strip shall be planted with at least one (1) tree and eight (8) shrubs per forty (40) linear feet of frontage.</li> <li>Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts.</li> </ul>
Equipment Screening	<ul style="list-style-type: none"> <li>Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, and similar equipment shall be screened on at least 3 sides. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within 2 years of planting.</li> </ul>
Greenbelts	<ul style="list-style-type: none"> <li>Shall consist of closely spaced evergreen plantings (i.e., no further than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least eight (8) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.</li> <li>The minimum width of any required greenbelt shall be twenty (20) feet, except where used to cover an obscuring wall, in which case the greenbelt shall be at least nine (9) feet in width.</li> <li>Every effort shall be made to link greenbelts on adjacent parcels to provide a continuous landscaped or natural area.</li> </ul>
Berms	<ul style="list-style-type: none"> <li>Berms shall be constructed with slopes no steeper than One (1) foot vertical for each three (3) feet horizontal (33% slope), with at least a 2-foot flat area on top. Berms shall be landscaped with one (1) deciduous or evergreen tree and six (6) shrubs for every forty (40) lineal feet. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet. Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion.</li> </ul>
Obscuring Walls	<ul style="list-style-type: none"> <li>The Planning Commission may permit an obscuring wall to be installed in lieu of a berm or greenbelt, in cases where the applicant can demonstrate that there is insufficient space for the required berm or greenbelt, and that the site cannot be redesigned to accommodate a conforming berm or greenbelt. Obscuring walls or fences shall be 36" tall, constructed of durable materials, and placed inside and along the property lines. The Planning Commission has the authority to require specific materials based on the site conditions and the nature of the use. The Planning Commission may also choose to reduce the width of the required berm or greenbelt, provided that all required landscape plantings are still provided, rather than allow the requested wall.</li> </ul>
Fences	<ul style="list-style-type: none"> <li>Shall be constructed of durable materials and placed inside the property line.</li> </ul>
Species	<ul style="list-style-type: none"> <li>The Planning Commission shall approve tree species.</li> </ul>

Union Pier Districts	
Item	Standard
Tree preservation	<ul style="list-style-type: none"> <li>Site plans shall show all existing trees that are in the portions of the site that will be built upon or otherwise altered, and are 5 inches or greater in diameter, measured 4.5 feet above grade.</li> <li>Healthy, younger trees on the site shall be preserved where possible to allow for succession as older trees are lost. In the event that healthy plant materials are cut down, damaged, or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree, in accordance with the landscaping credits in <b>Section 4.3.4</b>, unless otherwise approved by the Planning Official based on consideration of the site and building configuration, available planting space, and similar considerations</li> </ul>

3. Parking Lot and Access Standards. The purpose of the parking and access standards is to ensure safe access to and from properties for both motorists and pedestrians and to ensure that stormwater is adequately managed in the context of the Union Pier core, with its higher degrees of impervious surface. The standards also ensure contiguous design between the Union Pier community in Chikaming and New Buffalo Townships. The parking and access standards in this section shall be required in addition to the parking and circulation standards in **Section 4.2**. In an instance where the provisions of this section conflict with provisions in **Section 4.2**, the more stringent provision shall apply.

Item	Union Pier Districts	
	Union Pier Village (UPV)	Union Pier Corridor (UPC)
Item	Standard	
Parking Space Striping	All paved parking lots must be striped with conforming parking spaces matching the approved plan for the parking lot and in compliance with ADA requirements for barrier-free parking spaces. The striping must be maintained to be visible to motorists.	
Parking Rows	Continuous rows of parking shall be limited to not more than twenty (20) contiguous spaces. Longer rows shall provide landscaped breaks (e.g., islands or bioswales) with shade trees.	
Materials	All parking lots designed to hold ten (10) cars or more, including access lanes, driveways, and other vehicle maneuvering areas shall be paved with pervious concrete or asphalt to achieve a smooth, dustless surface, unless the Planning Commission approves otherwise.	
Stormwater Management	All off-street parking areas, access lanes, and driveways shall be graded and drained to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property.	
Driveway Spacing	<ul style="list-style-type: none"> <li>Driveway design and spacing is subject to the approval of the Berrien County Road Department, proof of which shall be required</li> <li>Where possible, curb cuts shall be consolidated and spaced so as to minimize conflict with nonmotorized travelers</li> </ul>	

4. Lighting Standards. The purpose of this section is to ensure that adequate lighting is provided to facilitate all forms of travel in the mixed automobile and pedestrian context of the Union Pier community. The type of lighting fixtures required depend on the subject property’s location and are designed to illuminate both roadways and sidewalks, and to enhance the quality of the streetscape by reducing glare. The lighting standards shall apply in addition to the requirements of **Section 4.6**. In an instance where the



provisions of this section overlap with provisions in **Section 4.6**, the more stringent provision shall apply.

Union Pier Districts	
Item	Standard
Compliance With Industry Standards	Provide compliance with the most recent edition of the "Illuminating Engineering Society of North America (IESNA) Model Lighting Ordinance (MLO)," shall be required for parking areas, walkways, driveways (except private residential driveways), building entrances, loading areas, and public common areas in the Union Pier districts to ensure the security of property and safety of persons
Shielding	All lighting fixtures in the Union Pier districts shall face downward and shall have one hundred (100) percent cut-off shielding that prevents light from being emitted above a horizontal plane.
Light Trespass	Light trespass on a commercial property shall not exceed 0.5 foot-candles at the property line, measured at grade. Light trespass on a residential property shall not exceed 0.25 foot-candles at the property line, measured at grade.

5. Sign Standards. See **Section 4.4** for Union Pier Districts' sign standards.

**2.2.9 Industrial District (I)**

The intent of the Industrial zoning category is to provide space for wholesale, warehousing, light manufacturing, and other production-oriented uses. The zone's purpose is to allow a limited range of such employment-generating uses in locations where they have access to transportation infrastructure and utilities but are not detrimental to surrounding commercial areas or residential neighborhoods. Other permitted uses include manufactured housing and mobile home parks.



INDUSTRIAL (I)	
Lot Occupation	Standard
Minimum Lot Width	100'
Minimum Lot Area	1 acre
Maximum Lot Coverage	100%
Base Density	N/A
Main Building	Standard
Front Setback	40'
Side Setback	15'
Rear Setback	40'
Maximum Height	50'
Accessory Building	Standard
Permitted Location	Side or rear yard



Front Setback	N/A
Side Setback	15'
Rear Setback	40'
Setback From Buildings on Lot	10'
Maximum Height	30'
<b>Parking</b>	<b>Standard</b>
Permitted location	Side or rear yard
Front Setback	N/A
Side Setback	10'
Rear Setback	10'

### 2.2.10 Floodplain Overlay District (F-1)

This District is intended primarily to protect those undeveloped areas of New Buffalo Township which are subject to predictable flooding in the floodplain area of the Galien River or its tributaries, and other water bodies, that the reservoir capacity will not be reduced or impede, retard, accelerate or



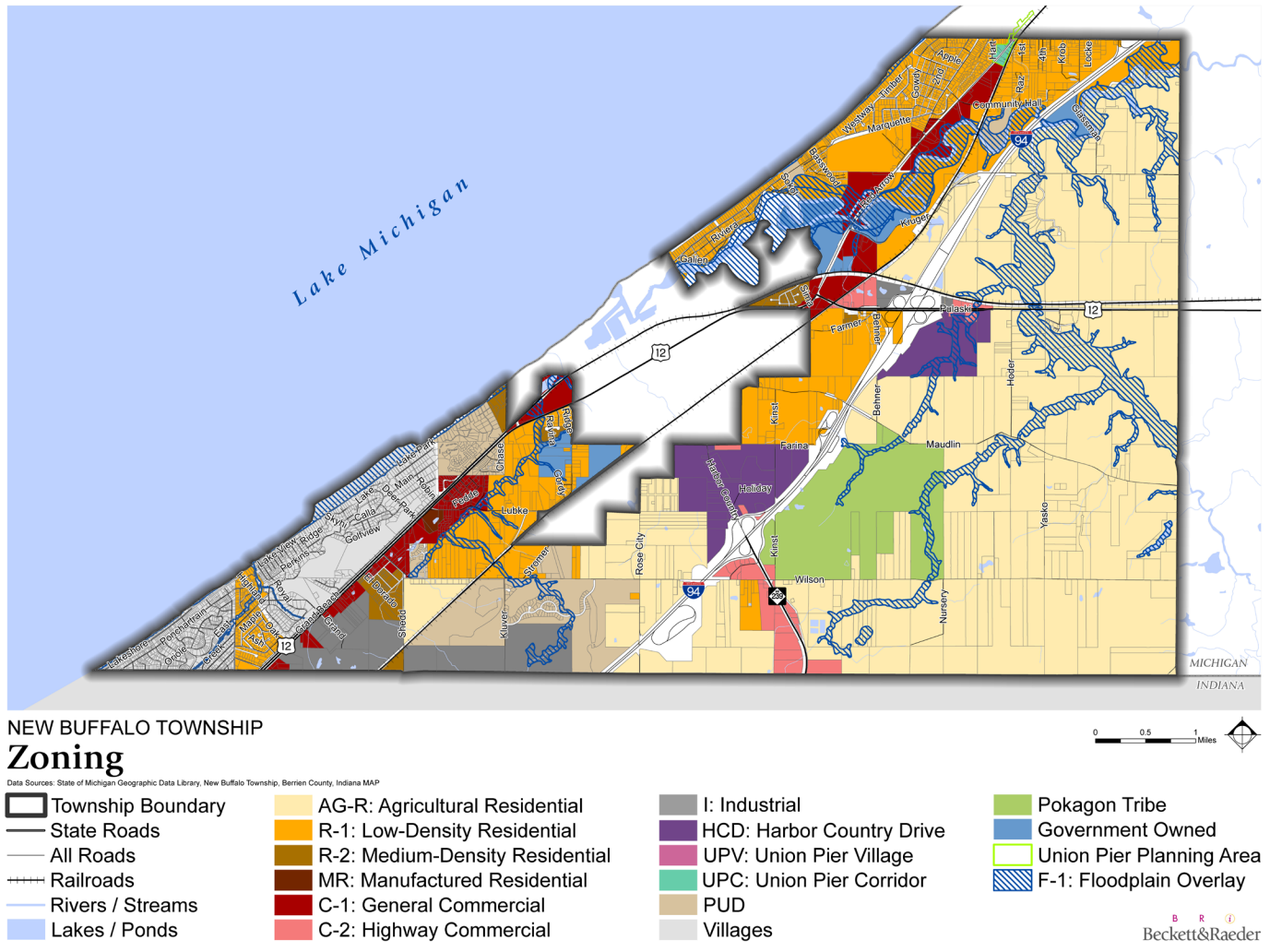
change the direction of flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. The requirements of this district, while permitting reasonable use of properties within the floodplain, will help protect human life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency through public aid or relief efforts occasioned by the unwise occupancy of such flood areas. Development within a flood hazard area, including the erection of structures, shall not occur except upon issuance of a zoning permit in accordance with the requirements of this Ordinance and the standards in **Section 1.23**.

## 2.3 ZONING MAP

The boundaries of the zoning districts established by the Ordinance are shown on a map or series of maps designated the "Official Zoning Map". The Official Zoning Map including all notations, references, data and other information shown therein, is adopted and made a part of this Ordinance as fully as if it were contained within the pages of this Ordinance.

- A. Location: The Official Zoning Map is filed in the office of the Zoning Administrator.
- B. Updates: The Township Board may adopt amendments to the district boundaries designated on the Official Zoning Map upon review and recommendation by the New Buffalo Township Planning Commission. Updates to the Official Zoning Map shall be initiated at the Planning Commission level for approval by the Township Board.

2.3.1 Official Zoning Map



2.3.2 Zoning District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts, the following rules shall apply:

- A. The district boundaries are public rights-of-way, including streets, roads, places, and alleys unless otherwise shown; where the districts designated on the Official Zoning Map are approximately bounded by street, road, place, or alley lines, the center lines of the same will be construed as the boundary of the district.
- B. Boundaries indicated as approximately following platted lot lines or Township limits shall be construed as following such lot lines or Township limits.
- C. Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.

- D. Boundaries indicated as parallel to or extensions of features indicated in **Section 2.3.2** items A-C, shall be so construed by legal descriptions confirmed if necessary, by certified survey by a licensed surveyor. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- E. Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this section, the Zoning Board of Appeals shall interpret the district boundaries using a certified survey by a licensed surveyor as support.
- F. For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.
- G. Any dispute in the determination of the zoning district boundaries shall be heard by the Zoning Board of Appeals with supporting materials from a licensed surveyor where the Board deems appropriate.

### **2.3.3 Properties With Multiple Zoning Designations**

When an individual recorded parcel, which exists at the time of adoption of this ordinance, has more than one zoning classification, the zoning designation which comprises the majority of the parcel area shall be applied to the entire parcel.

### **2.3.4 Zoning Of Vacated Areas**

Whenever all or part of a street, alley, or other public way is vacated, it shall automatically become a part of the district to which it attaches. If a vacated area is bordered by two different districts, the area is divided along a line halfway between them, and each half is assigned to the adjacent zone, unless the Township Board designates otherwise.

## ARTICLE 3: REGULATED USES

### 3.1 Zoning Districts and Regulated Land Use Table

#### 3.2 Regulated Uses Table

### 3.1 ZONING DISTRICT AND REGULATED LAND USE TABLE

The Regulated Uses Table in this Article is organized by general land use category (e.g. residential, commercial, etc.) and specifies the established zoning district(s) where each specific land use is allowed.

#### 3.1.1 Interpreting the Table

- A. Permitted Uses: The symbol (P) is noted if a land use is permitted by right in a zoning district.
- B. Uses Requiring Special Land Use Permit: The symbol (S) is noted if a land use is permitted after review and approval as a special land use permit in accordance with **Article 8: Special Uses**.
- C. Uses With Supplemental Standards: The symbol (\*) is noted if a land use has supplemental use regulations, as provided in **Article 5**.
- D. Uses Not Allowed: If a land use type is not allowed in a zoning district, it is blank without a (P) or (S).

#### 3.1.2 Similar Use Determinations

If a proposed use is not clearly listed or identified in the Regulated Uses Table in **Section 3.2**, the Zoning Administrator shall make a determination as to whether or not the proposed use is similar enough to fit within the definition of an existing listed use and should be accommodated. The determination of the Zoning Administrator regarding unclassified uses may be appealed to the Zoning Board of Appeals for a final determination. If a proposed use is found not be similar enough to an existing listed use to be accommodated, a request to add the proposed use through an amendment may be requested subject to the procedures and standards in **Article 11**.

3.2 REGULATED USES TABLE

REGULATED USES	Zoning Districts										
	AG-R	R-1	R-2	MR	C-1	C-2	HCD	UPV	UPC	I	F-1
<b>RESIDENTIAL USES</b>											
Accessory buildings, structures, and uses	P	P	P	P	P	P	P	P	P	P	P
Dwelling, above commercial ground floor					S	S	P	P	P		
Dwelling, multiple family					S	S	S		S		
Dwelling, one-family	P	P	P		P						
Dwelling, townhouse			P		P	S	S		S		
Dwelling, two-family or duplex			P		P	S	S		S		
Home occupation	P	P	P		P	P	P	P	P		
Guest quarters*	P	P	P		P	S	P	P	P		
Manufactured homes (with foundations)	P	P	P	P							
<b>RESIDENTIAL SERVICES</b>											
Adult foster care family home	P	P	P	P	P	S	S	S	S		
Adult foster care group home	S		S	S	S						
Childcare center	S				S		P				
Child family day care homes*	P	P	P	P	P	S	S	S	P		
Child group day care homes	S		S	S	S						
Housing for the elderly	S		S		S						
Nursing home					S						
<b>PUBLIC &amp; SEMI-PUBLIC USES</b>											
Campgrounds*	S					S					
Cemeteries	S	S	S		S	S					
Landing fields, private and non-commercial	S										
Marinas*					S						S
Municipal buildings	P				P	P	P		P		
Recreational facilities, privately-owned and not-for-profit*	S	S	S		S						P
Recreational facilities, publicly owned*	P	P	P	P	P	P					P
Parking lot with no other principal use					P	P	P	P	P	P	
Private clubs, fraternities and lodges, assembly buildings					S	S					

REGULATED USES	Zoning Districts										
	AG-R	R-1	R-2	MR	C-1	C-2	HCD	UPV	UPC	I	F-1
Schools, public	S	S	S		S	S			S		
Recycling centers*										S	
Religious institutions*	S	S	S		S	S	S		S		
Shooting range	S										
Wildlife preserves	S										P
<b>COMMERCIAL USES</b>											
Automobile repair*					S	S				S	
Automobile service stations*					S	S				S	
Bar, tavern, or alcohol service establishment					P	P	P	P	P	P	
Bed and breakfasts*	S	S	S								
Breweries	S				S	S	S		S	S	
Building supply and equipment establishments					S	S				S	
Business service establishments					P	P	P	P	P		
Commercial excavation, dredging *						S				S	
Commercial schools					S	S	S		S		
Commercial lodging*					S	P	P	P	P		
Contractor storage yard*										S	
Distillery	S				S	S				S	
Drive-through establishments					S	S	S				
Dry cleaning and laundry establishments					P	P	P		P	P	
Financial services					P	P	P	P	P		
Food trucks, Vendor Trucks, & Pop-up operations*					P	P	P	P	P		
Funeral home					S	S					
Golf facilities*	S	S	S		S	S	S				P
Greenhouse and nurseries	P				S	S	S		S		P
Indoor recreation facility					S	S	S	S	S		
Kennels*	S				S	S				S	
Landscaping business*	S				S	S				S	
Open air businesses*					S	S	S	S	S		
Outdoor commercial recreation					S	S	S		S	S	
Outdoor display, sales, or storage of products grown on site	P				S	S				S	
Outdoor seating*					P	P	P	P	P		
Personal service establishments					P	P	P	P	P	P	

REGULATED USES		Zoning Districts										
		AG-R	R-1	R-2	MR	C-1	C-2	HCD	UPV	UPC	I	F-1
Professional service establishments						P	P	P	P	P	P	
Recreational vehicle sales						S	S	S			S	
Retail establishments						P	P	P	P	P		
Restaurant		S				P	P	P	P	P		
Sexually oriented businesses*											S	
Small distilleries		S				S	S	S	S	S	S	
Small wineries		S				S	S	S	S	S	S	
Storage facility							S				S	
Theaters						P	P	P	S	S		
Truck terminals											S	
Wineries		S				S	S	S	S	S	S	
<b>INDUSTRIAL USES</b>												
Agricultural assembly space		S										P
Agricultural tourism*		P										P
Agricultural use		P										P
Agricultural use, intensive		S										
Laboratories											P	
Lumber and planing mills*							S				S	
Lumber yards*											S	
Manufacture of products											P	
Manufacture of corrosive substances											S	
Tool & Die						S	S				S	
Wholesale establishments							S				P	
<b>TRANSPORTATION &amp; UTILITY USES</b>												
Bus terminals and train stations						S	S					
Communications tower*		S				S	S	S		S	S	
Personal wireless service facilities*		S	S	S	S	S	S		S	S	S	
Renewable Energy Systems	Personal Solar Energy Collection Systems*	P	P	P	P	P	P	P	P	P	P	
	Commercial Solar Energy Collection System*	S				S	S				S	
	Personal Wind Energy Conversion System*	P				P	P		P	P	P	
	Commercial Wind Energy Conversion System*	S				S	S				S	
Utility and public service buildings*		S	S	S	S	S	S	S		S	P	



## ARTICLE 4: SITE DEVELOPMENT STANDARDS

- 4.1 Intent & Purpose
- 4.2 Parking & Circulation
- 4.3 Landscaping
- 4.4 Signs
- 4.5 Stormwater Management
- 4.6 Exterior Lighting

### 4.1 INTENT AND PURPOSE

The purpose of the regulations in this Article are to protect the public health, safety, and general welfare; to promote harmonious and orderly development; and to foster civic beauty by improving the appearance, character, and economic value of civic, commercial, and industrial development.

### 4.2 PARKING AND CIRCULATION

#### 4.2.1 General Standards

- A. Reduction of Parking. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use, unless otherwise provided in this ordinance.
- B. Prohibition of Motor Vehicle Sale and Repair. The storage of motor vehicles displayed for sale and the repair of vehicles are prohibited in any off-street parking lot except for establishments approved for such uses.
- C. Parking of Semi-Trucks in Residential Districts. Parking of semi-trucks, including semi-truck trailers, shall be prohibited in any mixed-use or residential district or on any residential property.
- D. Provision of Curb and Vehicle Stops. All off-street parking areas shall include curbs or vehicle stops to prevent vehicles from overhanging into or over public rights-of-way, sidewalks, or landscape areas.
- E. Defined Areas. Off-street parking areas and loading zones shall include painted lines, vehicle stops, or other delineating features to clearly define parking and loading spaces.
- F. Location. All off-street parking areas shall be on the same lot as the use they serve or shall be within five hundred (500) feet, measured from the closest point of the building to the nearest point of the off-street parking area.

#### 4.2.2 Required Parking

- A. Parking Spaces Required.

1. Usable Floor Area. Parking measurements based on building square footage shall be calculated by Usable Floor Area as defined in this ordinance.
2. Fractional Spaces. 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 additional parking space.
3. Use Determinations. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with the use which the Zoning Administrator considers to be similar in type.
4. Bicycle Parking Substitution. In off-street parking areas with greater than twenty-five (25) automobile parking spaces, bicycle parking spaces may be substituted for automobile parking spaces at the rate of ten (10) bicycle spaces per one (1) off-street parking space, up to four percent (4%) of the total number of required automobile parking spaces with a maximum of ten (10) automobile spaces replaced with bicycle parking.
5. ADA-Compliant Spaces. Off-street parking facilities shall provide spaces for the handicapped in accord with the provisions of Michigan Public Act 230 of 1972, as amended.

Total Number of Parking Spaces Provided in Lot	Minimum Number of Barrier-Free Spaces Required	Number of Van-Accessible Barrier-Free Spaces Required
Up to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	1
301 and Over	8	1

6. Number of Employees. The number of employees shall be based on the maximum number needed or the largest shift.
7. Number of Spaces Required. The minimum number of off-street parking spaces shall be determined in accordance with the following table:

MINIMUM NUMBER OF PARKING SPACES	
Land Use	Number of Spaces / Unit of Measurement
<b>RESIDENTIAL</b>	
Accessory Dwelling Unit	1 / dwelling unit

MINIMUM NUMBER OF PARKING SPACES	
Land Use	Number of Spaces / Unit of Measurement
Day Care Home	1 / employee at largest shift, plus one per 5 clients
Dwelling, one-family	2 / dwelling unit
Dwelling, two-family	1.75 / dwelling unit
Dwelling, three-family	1.25 / dwelling unit
Dwelling, four-family or greater	1 / dwelling unit
Dwelling, Unit in mixed-use building	1 / dwelling unit
Elderly Housing/Assisted Living	1 / employee at largest shift, plus .25 per dwelling unit
Group Home	1 / employee at largest shift, plus .5 per dwelling unit
Live/Work Dwelling Unit	1 / unit
Manufactured housing, mobile structure	2 / dwelling unit
Manufactured housing, permanent structure	2 / dwelling unit
INSTITUTIONAL	
Community Center	3 Space per 1,000 square feet of floor area
Education (elementary/middle)	1 / classroom, plus 2 / 5 seating in largest assembly area
Education (secondary and institutions of higher learning)	1 / 8 students, plus 3 / 5 seating in largest assembly area
Government/municipal building	1 / 300 sq. ft. floor area
Marina	3 / 4 boat slips
Private Club, Fraternal Organization, or Lodge Hall	1 / 400 sq. ft. floor area
Religious Institution	1 / 5 seats
Theaters, assembly areas	1 / 5 seats
LODGING	
Bed and Breakfast	2 / permanent resident family, plus 1 space per guest room
Hotel	1.3 / rentable room
Inn/motel	1 / rentable room
SERVICE & RETAIL	
Automobile Service Establishment	1 / 600 sq. ft. gross space
Bakery	1 / 800 sq. ft. floor area
Bar, Tavern, or Alcohol Service Establishment	1 / 150 sq. ft. floor area
Bowling Alley	1 / alley, plus 1 / 2 employees
Cafe	1 / 200 sq. ft. floor area
Drive-through Establishment	Stacking for 3 vehicle spaces at each bay, ordering station, or machine in addition to use requirement.
Farm Stand	3 / Stand
Funeral Homes and Mortuary Establishments	1 / 250 sq. ft. floor area
Golf Courses	1 / 3 golf holes plus 1 / 2 employees

MINIMUM NUMBER OF PARKING SPACES	
Land Use	Number of Spaces / Unit of Measurement
Greenhouse/Nursery	1 / 400 sq. ft. sales area
Kennels, Veterinary Hospitals	1 / 300 sq. ft. floor area
Open Air Business	1 / 200 sq. ft. indoor floor area, plus 1 for each 1,000 sq. ft. outdoor display area
Personal Service Establishment	1 / 400 sq. ft. floor area
Restaurant	1 / 200 sq. ft. floor area
Retail, Apparel	1 / 350 sq. ft. floor area
Retail, Art Gallery	1 / 300 sq. ft. floor area
Retail, Furniture Store	1 / 1,000 sq. ft. floor area
Retail, Grocery Store	1 / 300 sq. ft. floor area
Retail, Unless Otherwise Specified	1 / 250 sq. ft. floor area
Shooting Range	1.2 / shooting bay
<b>OFFICE</b>	
Clinic	1 / 250 square feet of floor area
Financial Institution	1 / 400 sq. ft. floor area
Offices, Unless Otherwise Specified	1 / 300 sq. ft. floor area
<b>INDUSTRIAL</b>	
Manufacturing, Assembling, Processing	1 / 400 sq. ft. floor area
Warehousing & Distribution	1 / 1,000 sq. ft. floor area
Wholesale Activities	1 / 1,000 sq. ft. floor area

8. Bicycle Parking.
  - a. Compliance Required. Whenever full off-street parking compliance is required in a C-1, C-2, or HCD property, bicycle parking shall be established and shall be located within 50 feet of the main entrance of a building or inside a building in a location that is easily accessible by bicyclists.
  - b. Bicycle Parking Required. Bicycle parking shall be established for developments at the following rates:
    - i. Multiple Family dwelling units with five (5) or more units or dwelling units in the C-2 or C-1 districts shall provide one (1) bicycle parking space per unit.
    - ii. Commercial or mixed-use developments in the C-2, C-1, and HCD districts shall provide two (2) bicycle parking spaces per lot, plus one (1) bicycle parking space for every ten (10) vehicle parking spaces.
  
9. Snow Storage. Off-street parking areas larger than 2,700 square feet shall be provided with on-site snow storage areas in addition to the required off-street parking area. Snow storage areas shall be provided on the ratio of fifteen (15) square feet per one hundred (100) square feet of off-street

parking area. Snow storage areas shall be located in such a manner that when utilized does not interfere with clear visibility of traffic or adjacent streets and highways and so that the landscaping required in **Section 4.3** is protected from damage.

B. Parking Reduction or Deferral.

1. Collective Parking. Joint use of the required parking areas may be permitted for two (2) or more uses located on the same, adjacent parcels, or those located within 500 feet of one another. Reductions in the required number of off-street parking spaces are permitted in these instances. Each land use shall be categorized within the functions listed in the “shared parking” table, as determined by the Zoning Administrator. To calculate the required number of shared parking spaces to serve two functions, the requirements for each individual use shall be determined and then summed. This sum is then divided by the number found at the nexus of the two functions in the chart below to produce the effective parking needed.

Example: Use 1 is Residential and requires 12 spaces.  
 Use 2 is Retail and requires 32 spaces.  
 The sum of both requirements is 44 spaces.  
 The number at the nexus of the Residential and Retail uses is

1.2.

Dividing 44 by 1.2 yields 36.6 required spaces  
 Fraction is rounded to produce the shared parking requirement: 37.

Function					
Function	Residential	Institutional	Lodging	Office	Service & Retail
Residential	1.0	1.5	1.1	1.4	1.2
Institutional	1.5	1.0	1.5	1.3	1.3
Lodging	1.1	1.5	1.0	1.7	1.3
Office	1.4	1.3	1.7	1.0	1.2
Service & Retail	1.2	1.3	1.3	1.2	1.0

- C. Deferred Parking. For development in any zoning district, the Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:

1. Evidence shall be presented by the applicant in support of a lower requirement.
2. Areas proposed for deferred parking shall be shown on the site plan and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.

3. Deferred parking areas shall be reserved to accommodate additional parking to meet the otherwise applicable minimum requirements. In the event that the Planning Commission determines that additional parking is required, a site plan shall be submitted to staff for approval. The additional parking shall be constructed within four (4) months thereafter.
4. Other alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator and shall require the approval of an amended site plan, submitted by the applicant accompanied by evidence documenting the justification for the alteration.

#### 4.2.3 Additional Requirements for Parking in Residential and Agricultural-Residential Zones

- A. Facilities Required. The off-street parking facilities required for residential dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve and shall consist of a parking strip, parking apron, driveway, carport, garage, and/or some combination thereof.
- B. Lot Occupation. Parking areas shall be accommodated in paved (concrete, asphalt, brick and other similar materials) driveways but may not occupy more than fifty percent (50%) of any yard. Such parking area shall provide two (2) parking spaces per dwelling unit where no garage is provided.

#### 4.2.4 Additional Requirements for Parking in Mixed-Use, Commercial, and Industrial Zones

- A. Compliance Required. Off-street parking and loading provisions of this section shall apply to the following:
  1. New Construction. For all buildings and structures erected and all uses of land established after the effective date of this chapter.
  2. Enlargement. Whenever a building is expanded to increase its usable floor area by more than twenty five percent (25%).
  3. Change in Use. Whenever the use of a building or portion of a building is changed to accommodate a use requiring more parking than the former use.
  4. Parking Area Construction and Expansion. Pulverizing an existing asphalt, concrete, or other paved parking surface; the outright removal or substantial modification of the paved surface in preparation for paving; and demolition by neglect which serves to return a parking area substantially to gravel or other aggregate surface shall, for the purposes of this code, be considered a new parking area. Routine grading and maintenance will not be considered a new parking area.

- B. Excessive Parking. Parking in excess of one hundred thirty percent (130%) of the required number of parking spaces (rounded down to the nearest whole number) shall constitute excessive parking and shall not be permitted. Parking of more than one hundred thirty percent (130%) of the requirement will require a variance from the Board of Zoning Appeals. Each ten percent (10%) increase above the required number of parking spaces shall require an additional one percent (1%) increase in the interior parking lot landscaping provisions provided in this section of the Zoning Ordinance.
- C. Ingress and Egress.
1. Driveway Spacing. A maximum of one driveway for each sixty-six (66) feet of lot width shall be allowed in mixed-use, commercial, and industrial zones; C-2, C-1, and I. Modification of this standard shall only be allowed where the plan for such access can be demonstrated to the satisfaction of the Planning Commission that traffic movement and traffic safety can better be served by such modification.
  2. Vehicle Stacking. Entrances shall be designed to allow vehicles entering the site to be stacked to prevent backup on the adjacent street. Parking lot entrances and exits shall be consolidated when possible to limit the number of access points to the site. In instances where parking areas are 100 feet or more wide, the parking lot entrance shall be a minimum of 50 feet from the nearest existing access drive.
  3. Location Relative to Street Intersections. Driveways shall be located as far away from street intersections as possible to prevent impeding the flow of traffic in the parking lot and prevent hazards in the street. Each driveway from any off-street parking lot located in an area zoned for other than single-family and two-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district and shall be located at least twenty-five (25) feet distant from any corner.
  4. Shared Driveways. Shared driveways are encouraged between adjacent properties in mixed-use, commercial, and industrial zoning districts, and for condominium units, whenever feasible.
    - a. Shared driveways shall meet the following standards:
      - i. Not more than four (4) parcels may be served by a shared driveway.
      - ii. Minimum easement width shall be twenty four (24) feet.
      - iii. Minimum paved width shall be twenty (20) feet.

- b. A shared driveway easement agreement legally describing the driveway and providing for shared use of the driveway shall be entered into.
  - c. A shared driveway maintenance agreement between the owners of the parcels served by the shared driveway shall be entered into. Such agreement shall further address arrangements for standing, loading, and unloading in order to avoid undue interference with the shared use of any shared driveway.
  - d. The joint agreements entered into pursuant to items (b) and (c) above shall be recorded with the Berrien County Register of Deeds as a general deed restriction and shall bind the owners, including their successors and assigns, of all lots, parcels, and condominium units with access to the shared driveway. A copy of the recorded easement agreement and maintenance agreement shall be submitted to the Township prior to the issuance of a land use permit.
  - e. In the event a shared driveway is constructed over a shared property line, setback requirements shall be measured from the limits of the shared driveway easement.
5. Existing Driveways. Except for shared driveways, existing driveways that do not comply with the requirements of this section shall be closed when an application for a change of use requiring a land use permit or a site plan requiring approval under this Ordinance is submitted and once approval of a new means of access under this Section is granted. A closed driveway shall be graded and landscaped to conform to adjacent land and any curb cut shall be filled in with curb and gutter per the standards of the applicable road authority.

#### 4.2.5 Parking Lot Design

- A. Stormwater and Drainage. Except for one- and two-family dwellings, off-street parking areas shall be drained with internal site drainage to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings unless otherwise approved by the Planning Commission. The Planning Commission may allow the upgrading of drainage without providing for full internal site drainage for existing structures upon determination by the Township Engineer that development will not incur undue impacts on structures.
- B. Materials and Surfacing. An entire parking area, including parking spaces, maneuvering lanes, and ingress and egress driveways, shall be covered with asphalt, concrete, brick, or other similar hard surface which meets drainage requirements in accordance with specifications approved by the Township. The parking area shall be surfaced prior to the issuance of a permanent certificate of occupancy. In instances



where a parking area is non-conforming, the expansion or significant improvement of the use of the land or structure shall require the paving of such parking area to conform with this Section. This surface shall be striped and maintained in good condition and free of weeds, dirt, trash, and debris.

- C. Parking Space Design. Off-street parking areas shall be designed to the following minimum standards:

PARKING PATTERN (Degrees)	MANEUVERING LANE	PARKING SPACE		
	Width (feet)	Width (feet)	Length (feet)	Total Width of 2 Parking Stalls Plus Maneuvering Aisle (feet)
0 (Parallel Parking)	12	8	22	28
30 - 44	12	9	18	48
45 - 59	14	9	18	52
60 - 89	18	9	18	58
90	22	10	19	60

- D. Circulation.

1. All parking areas shall be provided with circulation aisles of adequate dimension to ensure efficient internal circulation.
2. Parking lots with 300 or more spaces shall include perimeter drives and a central access drive leading to the main building.
3. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern may permit two-way movement.
4. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
5. Ingress and egress to a parking lot lying in an area zoned for other than single-family or two-family residential use shall not be across land zoned for single-family or two-family residential use.

- D. Pedestrian Circulation. All off-street parking areas except those in the Industrial (I) zone, those intended for one- or two-family dwellings, or for farm operations in the AG-R District shall provide safe, efficient pedestrian circulation that meets the following requirements:

1. Single loaded parking rows shall have a sidewalk between the parking stall and the edge of the off-street parking area.

2. Double loaded parking rows shall have a sidewalk between the two rows of parking stalls.

E. Bicycle Parking Construction Standards.

1. Bicycle Lockers. Where required bicycle parking is provided in lockers, the lockers must be securely anchored.
2. Bicycle Racks. Where required bicycle parking is provided in racks, the racks must be constructed so that the bicycle wheel and frame can be locked to the rack with high security.

F. Screening and Landscaping.

1. Off-street parking areas and loading zones located in a side yard in the C-2, C-1, and I districts shall be screened from the street with a forty two (42) inch high brick or decorative masonry wall, set back five (5) feet from the public street right-of-way. The outside of the wall shall include one shrub for every five (5) lineal feet of street frontage. This requirement also applies to side streets when parking areas have frontage on two (2) streets.
2. Off-street parking areas and loading zones for uses other than one-, two-, three- or four-family residential dwellings that are adjacent to, or across the alley from, a residential use or zoning district shall be screened in either of the following ways between the parking lot and the adjacent residential use.
  - i. An obscuring wall consisting of durable masonry materials and constructed at least seventy two (72) inches in height.
  - ii. A landscaped buffer consisting of one (1) evergreen plant of at least seventy-two inches in height and planted at intervals of no less than eight (8) feet.
3. Off-street parking areas for uses in the Industrial district shall be screened where visible from a public right-of-way with a green belt as prescribed in **Section 5.3.**

G. Tree Islands. All off-street parking areas with twenty (20) or more parking spaces shall provide tree islands in the parking lot design satisfying the following standards:

1. Single-loaded aisles shall have one (1) tree island containing one (1) canopy tree at both ends of each row. The minimum dimensions for each island shall be nine (9) feet by eighteen (18) feet.
2. Double-loaded aisles shall have one (1) tree island containing two (2) canopy trees at both ends of each row. The minimum dimensions for each island shall be twelve (12) feet by thirty-six (36) feet.

3. In addition to the above required tree islands, additional tree islands shall be provided at a ratio of one (1) tree island per ten (10) parking spots and shall be evenly distributed throughout the off-street parking area. The tree islands shall contain one (1) canopy tree each and shall have the minimum dimensions of nine (9) feet by eighteen (18) feet.
  4. Tree islands shall be surrounded by a concrete curb at a height of six (6) inches. In addition to the required canopy tree(s), the interior of the islands shall be vegetated with turf and may be used for stormwater management, however, snow storage is prohibited. Any tree island used for stormwater must have appropriate curb cuts in order to allow the flow of stormwater into the island from parking areas.
- H. Lighting. All parking areas, driveways, and walkways shall be illuminated to ensure the security of property and the safety of persons using such areas, in accordance with the requirements in **Section 4.6**. The lighting may be shielded, pedestrian-level lighting rather than overhead light poles. Parking lot entrances shall be illuminated.
- I. Signs. Accessory directional signs shall be permitted in parking areas in accordance with **Section 4.4**.

#### 4.2.6 Off-Street Loading Requirements

- A. Compliance Required. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading. This space shall be placed to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- B. Location and Lot Occupation. In the C-2 and C-1 Districts, all loading spaces shall be in the rear or side yard. Up to five (5) of the off-street vehicle parking spaces required may be designated to be used as the loading zone. If required parking spaces are to be used as the loading zone, the applicant must supply adequate signage to show its use as such and to discourage parking during normal loading and unloading times.
- C. Size. Unless otherwise specified, each required loading space shall be a minimum of 10 feet in width and 50 feet in length, with a vertical clearance of 15 feet.
- D. Pavement Types. All dedicated loading spaces shall be provided with a pavement having an asphalt or Portland cement binder to provide a permanent, durable, and dustless service. The use of gravel shall be prohibited.
- E. Nonresidential Uses in Residential Districts. For non-residential uses in residential districts, all loading space sizes and locations shall be determined by the Planning Commission.

- F. Loading Space Requirements. The minimum number of loading zone spaces shall be provided as described below.

LOADING ZONE SPACES REQUIRED		
Use Type	Size	Loading Space(s)
Residential	0 – 24 dwelling units	None
	25 – 74 dwelling units	1
	75 or more dwelling units	2
Non-Residential	0-4,999 square feet gross floor area	Adequate off-street loading space as determined by the planning commission that is accessible by motor vehicle but does not interfere with pedestrian or vehicular traffic. The size of any loading space shall be based on the types of delivery vehicles the establishment uses.
	5,000-19,999 square feet gross floor area	1
	20,000-75,000 square feet gross floor area	1 plus 1 for each additional square feet

- G. Shared Loading. Shared loading facilities may be substituted for individual loading spaces serving establishments on separate lots provided that all of the following conditions are fulfilled:
1. Each business served shall have adequate access to the shared loading area as determined by the Planning Commission.
  2. Total loading space provided shall meet the minimum requirements specified in this section with respect to the total floor area of all businesses served by the shared loading space, unless otherwise determined by the Planning Commission.
  3. No building served by the shared loading area shall be located more than three hundred (300) feet from it, unless otherwise determined by the Planning Commission.

**4.2.7 Nonmotorized Transportation**

- A. Intent and Purpose: Safe, nonmotorized transportation options shall provide public access within the Township through sidewalks and shared-use pathways. All new development, re-development, and amendments to previously approved site plans, including substantial additions or improvements to existing buildings with a construction cost of twenty thousand dollars (\$20,000) or more within a twelve-month period, shall be required to provide adequate nonmotorized transportation options as prescribed in this Section. New development in the AG-R, R-1, and R-2 districts shall be exempt from the following requirements unless part of a site plan under the land development options in **Article 7**.
- B. General Provisions.

1. Sidewalks and shared-use pathways shall maintain their grade and not decline in elevation to meet driveways, but rather driveways shall meet the grade of sidewalks and shared-use pathways.
  2. All reasonable effort shall be made to avoid cutting trees when placing sidewalks or shared-use pathways.
  3. The Planning Commission may modify a nonmotorized transportation requirement of this Section or the proposed design as submitted by the developer, upon review of a site plan or under the recommendation of the Zoning Administrator.
  4. When required, permits must be obtained from the Michigan Department of Transportation and/or the Berrien County Road Department.
  5. Sidewalk and shared-use pathway maintenance, including replacement in the case of inadequate construction or unsafe, defective, or non-conforming design, as determined by the Zoning Administrator, shall be the responsibility of the parcel owner, or adjacent parcel owner if constructed in the street right-of-way.
  6. The owner of the property that fronts a sidewalk or shared-use pathway shall be responsible for maintenance of the shared-use pathway including patching cracked or deteriorated pavement, snow removal, and removal of debris.
- C. Frontage Sidewalks: All properties in the Highway Commercial (C-2) and the General Commercial (C-1), and Harbor Country Drive (HCD) Districts shall have sidewalks that extend across the entire front property line of the property and shall align vertically and horizontally with any existing sidewalks on adjacent properties. All frontage sidewalks shall conform with the following:
1. Sidewalks must be constructed within the street right-of-way as long as a minimum of ten (10) feet from the curb or pavement edge of the street is maintained, or five (5) feet from the edge of an on-street parking area. If insufficient right-of-way exists, then frontage sidewalks may be located on private property with an appropriate public access easement recorded prior to issuing a land use permit.
  2. Sidewalks must be constructed along both street rights-of-way for corner parcels.
  3. For parcels located in the Harbor Country Drive district, sidewalks must conform with the applicable specifications of **subsection 2.2.7**.
  4. Sidewalks must be a minimum of five (5) feet wide for parcels along roads and easements.

5. Sidewalks must be constructed of concrete and have a minimum thickness of four (4) inches except in areas crossed by vehicular traffic, which shall have a minimum of six (6) inches. Pervious pavement is allowed and encouraged.
- D. Shared-Use Pathways. The Planning Commission may approve the use of shared-use pathways on site plans as a means of providing nonmotorized transportation options. All shared-use pathways shall conform to the following specifications:
1. Minimum of ten (10) feet wide with two (2) feet of cleared shoulder on either side.
  2. Constructed of asphalt with a minimum thickness of two (2) inches atop a six (6) inch aggregate base.
  3. No more than five percent (5%) in grade.
- E. Pedestrian Travelways. All developments in the Highway Commercial (C-2), General Commercial (C-1), and Harbor Country Drive (HCD) Districts shall provide clearly defined sidewalks or shared-use paths (referred to collectively as "pedestrian travelways") extending between the frontage sidewalks to the main entrance of the adjoining buildings or land uses, or to the sidewalk fronting the building in the instance of a multi-entrance building. Such sidewalks or shared-use paths shall be constructed in keeping with the following requirements:
1. For properties with one hundred (100) feet or less of frontage abutting a public right-of-way, there shall be a minimum of one (1) designated pedestrian travelway.
  2. For properties with more than one hundred (100) feet of frontage abutting a public right-of-way, there shall be a minimum of one (1) designated sidewalks or shared-use paths per vehicular access drive or one (1) designated route per three hundred (300) feet of frontage, whichever results in a greater number of travelways.
  3. For properties with frontage abutting two (2) or more public streets, the minimum required designated routes shall be provided along each street.
  4. Sidewalks or shared-use paths shall be at least five (5) feet wide.
  5. When a frontage sidewalk does not exist, both a frontage sidewalk conforming with the Township standards and the connecting pedestrian travelway shall be installed.

## 4.3 LANDSCAPING

### 4.3.1 Intent and Purpose

The intent of this section is to protect and manage vegetation to:

- A. Safeguard and enhance private and public property values and encourage continued investment in the community.
- B. Enhance community appearance and appeal, identify unique natural beauty, and promote quality development at a suitable scale.
- C. Preserve the ecosystem benefits delivered by vegetation, including stormwater management, soil stabilization, temperature modulation, and improved air and water quality.
- D. Provide visual screens between land uses of differing character and use intensities.
- E. Promote the use of native plant materials while discouraging the use of invasive plant materials.

### 4.3.2 Applicability

All uses requiring site plan review or that adjoin a parcel in an AG-R, R-1, R-2, C-1, or C-2 zoning district and/or rights-of-way shall be subject to the requirements of this Section.

- A. Landscape Plan Required. A landscape plan is required for all construction in the following circumstances.
  - 1. All new uses requiring a site plan review.
  - 2. Additions to existing non-residential structures that increase the usable floor area by more than twenty five percent (25%).
  - 3. Expansions or contractions of nonconforming sites that do not meet the landscape requirements of this section.
- B. Exemptions.
  - 1. The reconstruction of an existing structure of which fifty (50) percent or less of the floor area was destroyed or ruined by flooding, fire, wind, storm, or act of nature, and where the reconstruction will not result in an increase in size of the structure, parking facilities, or paved areas.
  - 2. Interior remodeling or façade improvements that do not result in an increase in size of the structure, parking facilities, or paved areas.

3. Any use, building, or structure for which only a change of use is requested, and which requires no structural modifications that increase its volume or scale.
4. The requirements of this section shall not apply to single-family detached dwelling units, or to parcels within the Agricultural Residential (AG-R) District.

**4.3.3 General Standards**

A. Planting Materials.

1. Plant material shall be healthy and free of insects, diseases, and physical damage.
2. Unless otherwise specified, the minimum size for plant materials installed shall be as follows:

MINIMUM LANDSCAPE MATERIAL SIZE			
Vegetation Type	Minimum Caliper (in)	Minimum Height (ft)	Minimum Spread (ft)
Deciduous Trees	2.5	--	--
Ornamental Trees	1.5	--	--
Evergreen Trees	--	6.0	2.5
Shrubs	--	2.5	2
Hedges	--	2.5	--

3. Caliper of trunk shall be measured twelve (12) inches above ground.

B. Species.

1. Native plant species are recommended. Native plant species can be verified with the Berrien County Conservation District.
2. Invasive plant species shall be prohibited. The State of Michigan maintains a list of prohibited and restricted species established by the Michigan Natural Resources and Environmental Protection Act (Michigan Public Act 451 of 1994), regularly amended by Invasive Species Orders. The Berrien County Conservation District also maintains information about invasive species specific to southwest Michigan.

- C. Site Design. Landscape areas must be protected from vehicular traffic using concrete curbs, vehicle stops, or other permanent barriers. Protecting significant trees requires locating buildings, roads, and sidewalks in areas of the site which will minimize tree destruction, as well as establishing Protected Root Zones (i.e. tree root buffer zones) to protect vegetation during road widening, sidewalk construction, and cut-and-fill activities.



- D. Design Creativity. Creativity in landscape design is encouraged. Accordingly, required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer’s desired visual effect and, equally important, the intent of the Township to coordinate landscaping on adjoining properties. The Planning Commission will have discretion as to the appropriateness of proposed landscape design and strict adherence to the guidelines in this section.
- E. Visibility. Landscaping and screening materials shall be laid out in conformance with the requirements for clear vision areas and shall not obstruct the visibility of motorists or pedestrians. In any instances where the requirements of this section would result in reduced clear vision areas established in **subsection 1.19**, the Planning Commission may waive the requirement.
- F. Utilities. Where overhead and underground utilities are present, consideration shall be given to the location and mature height of species. Adjustments to the location of required planting areas may be approved by the Planning Commission to avoid conflict with such utilities provided the intent of the planting or screening requirements are maintained.
- G. Maintenance. All required landscaped areas shall be maintained in a healthy condition and kept orderly in appearance. Irrigation shall be provided to all required landscaping by means of a piped, permanent, and automatic underground system. The Planning Commission may approve an alternative form of irrigation, such as rain gardens or other green infrastructure, upon determining that these systems would provide a suitable alternative to underground irrigation.
- H. Time Period. Required landscaping shall be installed prior to the issuance of an occupancy permit. If a development is completed in seasons when plants cannot be installed, the developer shall submit a performance guarantee equal to the materials and labor for the required landscaping to ensure installations at the beginning of the next planting season.
- I. Replacement. When trees or shrubs planted in accordance with the requirements of this section die or are removed for any reason, they must be replaced during the next suitable planting season in a manner, quantity, and size approved by the Zoning Administrator.

**4.3.4 Existing Vegetation**

- A. Preservation. Existing deciduous trees, evergreens, flowering trees, and shrubs shall be protected and incorporated into the site plan wherever feasible.
- B. Credit. The table below indicates the landscaping credit offered by preserving existing vegetation of different sizes and types.

LANDSCAPING CREDIT		
Vegetation Type	Maturation	Landscaping Credit
Deciduous Tree	3" or less caliper	1:1

Deciduous Tree	4" - 6" caliper	1:2
Deciduous Tree	7" - 9" caliper	1:3
Deciduous Tree	10" - 12" caliper	1:4
Deciduous Tree	Greater than 12" caliper	1:5
Evergreen or Ornamental Tree	6' or less height	1:1
Evergreen or Ornamental Tree	7' - 12' height	1:2
Evergreen or Ornamental Tree	13' - 16' height	1:3
Evergreen or Ornamental Tree	Greater than 16' height	1:4
Shrub	Any size	1:1

C. Protection of Vegetation.

1. Preserved trees shall be protected with high visibility barriers around the protected root zone. The protected root zone shall be a radius one and a half (1 ½) feet from the trunk for every one (1) inch of the tree caliper.
2. Barriers shall not be supported by the trees.
3. No grading, demolition, trenching, operation or storage of equipment, or other activity shall occur in the protected root zone.
4. Healthy, younger trees on development site shall be preserved wherever possible to allow normal succession as older trees are lost.

**4.3.5 Site Requirements**

- A. Ground Cover. All areas in C-1, C-2, HCD, and I Districts not covered by buildings, parking areas, driveways, walkways, pedestrian amenities, or other impervious surfaces shall be replanted with ground cover at a minimum. Ground cover may include:
1. Maintained lawn area.
  2. Non-invasive wildflowers, vines, grasses, rushes, sedges, shrubs, or ferns.
  3. Wood chips, mulch, or rock, provided this type of material does not exceed twenty percent (20%) of the total of any individual landscaped area.
- B. Canopy Cover. All properties zoned MR, C-1, C-2, or I shall provide one (1) tree per four thousand (4,000) square feet of unpaved or undeveloped lot area for the first twenty four thousand (24,000) square feet, and one (1) tree per six thousand (6,000) square feet of unpaved or undeveloped lot area over twenty four thousand (24,000) square feet.
1. Required trees may be planted at uniform intervals or arranged in groupings.

2. The general site topography and any natural landforms unique to the property shall be maintained and made part of the development whenever possible to reinforce the local and regional character.
- C. Screening of Equipment. Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, and similar equipment shall be screened on at least three (3) sides. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting.

#### 4.3.6 Landscape Buffers and Screening

- A. Screening Between Incompatible Land Uses. Effective screening shall be provided as required between incompatible land uses. The Planning Commission shall make the final determination on the required screening method based on site conditions and the specific land use. Screening materials may include the following, separately or in combination:
1. Vegetated Screens. Vegetated screens shall consist of evergreen trees planted no more than fifteen (15) feet apart and can be reasonably expected to achieve a complete visual barrier at a minimum height of six (6) feet in three (3) years. Deciduous trees may be incorporated for plant diversity provided the effectiveness of the screen is achieved.
  2. Berms. Berms shall be constructed with slopes no greater than one (1) foot of vertical rise for every three (3) feet of horizontal run with at least a two (2) feet flat surface on top, sodded to provide adequate protection against erosion. Berms shall be landscaped with one (1) deciduous or evergreen and six (6) shrubs for every forty (40) lineal feet. Clustering of trees and shrubs is allowed upon approval of the Planning Commission.
  3. Obscuring Walls or Fences. Obscuring walls or fences shall be a constructed of durable materials and placed inside and along the property lines and shall otherwise comply with **section 1.7**. The Planning Commission has the authority to require specific materials based on the site conditions and the nature of the use. Walls and fences shall include one (1) vine or shrub for every ten (10) lineal feet, planted on the exterior face of the structure.
  4. Greenbelts. Greenbelts shall occupy a prescribed buffer zone and consist of vegetated ground cover, along with one (1) deciduous or evergreen tree and six (6) shrubs for every forty (40) lineal feet. Clustering of trees and shrubs is allowed upon approval of the Planning Commission. Effort shall be made to link greenbelts on adjacent parcels to provide a continuous landscaped area.
- B. Screening Required. The table below provides the instances when screening is required, along with applicable dimensions and buffer zones:

LANDSCAPE BUFFERING & SCREENING REQUIREMENTS				
Zoning District	Minimum Screen Width (ft)	Minimum Screen Height (ft)	Screen Type	Required Instances and Locations
AG-R	--	--	--	--
R-1	10	--	Greenbelt	Rear and side property lines for non-residential uses
R-2	10	--	Greenbelt	Rear and side property lines for non-residential uses
MR	10	--	Greenbelt	All property lines and public right-of-ways
C-1	--	6	Vegetated Screen / Obscuring Walls or Fence	Side and rear lot lines abutting AG-R and R-1, R-2, and MR districts
C-2	--	6	Vegetated Screen / Obscuring Walls or Fence	Side and rear lot lines abutting AG-R, R-1, R-2, and MR districts
HCD	--	6	Vegetated Screen / Obscuring Walls or Fence	Side and rear lot lines abutting AG-R, R-1, R-2, and MR districts
I	20	6	Vegetated Screen / Obscuring Walls or Fence / Berm or combination	All rear and side property lines abutting all non-industrial districts and rights-of-way

**4.3.7 Right-of-Way Landscaping**

Properties zoned C-1, C-2, HCD, and I shall provide right-of-way landscaping along the street frontage that meets the following standards:

- A. A landscape buffer shall be constructed along the right-of-way at a minimum width of five feet.
- B. The landscape buffer shall include one (1) deciduous tree and six (6) shrubs for every thirty (30) feet of frontage. Trees shall be evenly spaced but shrubs may be clustered.
- C. For properties in the Harbor Country Drive District, required landscaping standards shall satisfy the needs of right-of-way landscaping specified in **Section 4.3.7**.

**4.4 SIGNS**

**4.4.1 Intent and Purpose**

The intent of this section is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety, welfare, and traffic safety. While this section recognizes that signs and outdoor advertising are necessary to promote commerce and public information, it also recognizes that the failure to regulate them may lead to poor identification of individual business, deterioration and blight of the business and residential areas of the Township, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists. To achieve its intended purpose, this section has the following objectives:

- A. To prevent the placement of signs in a manner that will conceal or obscure adjacent businesses or the signs of adjacent businesses.
- B. To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products.
- C. To keep signs within a reasonable scale with respect to the buildings they identify.
- D. To reduce visual distractions and obstructions to motorists traveling along, entering, or leaving streets.
- E. To promote a quality manner of display which enhances the character of the Township.
- F. To prevent the proliferation of temporary signs which might promote visual blight.
- G. Promote economic development by allowing a fair opportunity for each property owner to attractively display their message in a clean and clear way.

#### 4.4.2 General Standards

- A. Permit Required. Prior to the erection or structural alteration of a sign, a land use permit shall be secured from the Zoning Administrator. Where several signs are proposed for the same use, all such signs may be included in a single permit application.
- B. Permit Exceptions. Exceptions to the permit requirements of this subsection shall include the following:
  - 1. Address signs bearing only the property numbers, post box numbers, name of occupants, or other identification of the premises, limited to one (1) per building entrance and two (2) square feet of area.
  - 2. Historical signs designated by the state or Federal government, limited to ten (10) square feet per parcel.
  - 3. Government signs erected on behalf or pursuant to the authorization of a government body, including street signs, legal notices, informational signs, and regulatory signs.
- C. Design and Condition. All signs and sign structures shall be properly maintained and kept in a good state of repair.
- D. Right-Of-Way. No sign shall be placed in the right-of-way except permitted awning, canopy, marquee, and temporary signs with approval by the agency managing the right of way. Temporary signs must allow four (4) feet of unobstructed sidewalk clearance.

- E. Clear Vision Area. No sign above three (3) feet in height shall be placed in any required clear vision area.
- F. Traffic Interference. No sign shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word phrase, symbol, or character in such a manner as to interfere with, mislead, confuse, or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
- G. General Requirements Exceptions. The standards of this section shall not be applicable to any sign not visible from a public right-of-way.

#### 4.4.3 Submittal Requirements

Application for a land use permit to erect, alter, or move a sign shall include the following information at a minimum:

- A. Name, address, and telephone number of the applicant.
- B. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
- C. If proposed to be attached to a building, its proposed location on the building.
- D. A plot plan with dimensions of the sign, location on the lot, illumination source, method of construction, and attachment to the building or placement in the ground.
- E. Name of person, firm, or corporation erecting the sign.
- F. Written consent of the owner of the building, structure, or lot to which or upon which the sign is to be erected.
- G. Other information as the Zoning Administrator shall require to establish compliance with this Section.
- H. For temporary signs, the specific dates that the sign is to be displayed.

#### 4.4.4 Sign Measurements

- A. Surface Area.
  - 1. Signs shall not exceed the maximum allowable area permitted in this section for sign type and district or use. When not limited to one sign of a specific type, the maximum area shall be determined by the cumulative total of all the signs of a specific type.

2. The area of a sign shall mean the area of all lettering, wording, and accompanying designs, logos, and symbols. The area of a sign shall not include any supporting framework, bracing, or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
3. Where the sign consists of individual letters, designs, or symbols attached to a building, awning, wall, or window, the area shall be that of the smallest rectangle which encompasses all the letters, designs, and symbols.
4. Only one (1) face of a double-sided sign will be used to determine the area of the sign.
5. For V-shaped signs, either horizontally or vertically oriented, with interior angles greater than 90°, the sign area is the sum of both sign faces; otherwise, the area is the same as for double-sided signs.

B. Height:

1. Sign height shall be measured as the distance from the highest portion of the sign to the mean finished grade at the base of the sign.
2. Clearance for projecting, awning, and canopy/marquee signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other structural elements.
3. The permitted maximum height for all signs is determined by the sign type and the zoning district or use in which the sign is located.

#### 4.4.5 Illumination

Internal and external illumination shall be permitted for all signs except where limited or prohibited in this section, subject to the following:

- A. The maximum luminescence level of any sign shall be 0.3 footcandles (3.22 lux) over ambient light levels at any time, measured at a distance of one hundred (100) feet.
- B. All illumination shall be concentrated on the area of the sign or landscape feature and directed or shielded to not interfere with the vision of persons on the adjacent streets or adjacent property.
- C. No sign shall be illuminated by other than electrical means or devices, and wiring shall be installed underground in accordance with the National Electrical Code.
- D. All illumination shall emit light measuring 4,000 K or warmer (between 0 K and 4,000 K) on the Kelvin scale and shall not exceed 800 lumens.

- E. Internally illuminated signs shall have a dark background and light lettering.
- F. No sign shall include reflective materials.

**4.4.6 Freestanding / Monument Sign**

A. Definition. A sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent and detached from any building or other structure.



B. Regulations and Standards.

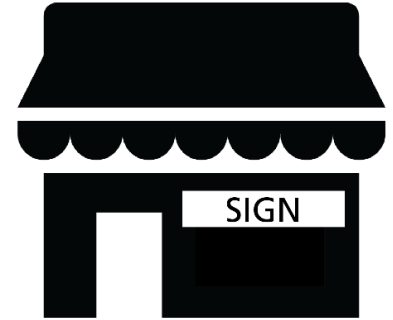
1. Freestanding ground signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign in such a manner as to incorporate it into the landscape or architectural design scheme.
2. No freestanding sign may occupy an area designated for parking, loading, walkways, driveways, fire lane, easement, sidewalk right-of-way, or other areas required to remain unobstructed.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
FREESTANDING/MONUMENT	AG-R	Illuminated - 32 Unilluminated - 40	12	1 / parcel	External illumination only 10 ft. setback from ROW	Yes
	R-1	2	4	1 / parcel	Illumination prohibited. Min 10 ft. setback from ROW	Yes
	R-1; Institutional Uses	Illuminated - 24 Unilluminated - 30	6	1 / parcel	External illumination only Min 10 ft. setback from ROW	Yes
	R-2	Illuminated – 20 Unilluminated – 30	6	1 / parcel	Min. 10 ft setback from ROW	Yes
	MR	Developments: Illuminated - 24 Unilluminated - 30	6	1 / entrance	External illumination only Min. 5 ft setback from ROW	Yes
		Individual Lots	4	1 / parcel	Illumination prohibited Min 10 ft. setback from ROW	Yes
	C-1, C-2, HCD	illuminated - 32 Unilluminated - 40	6	1 / parcel	Min. 5 ft. setback from ROW	Yes
	UPV, UPC	Illuminated - 32 Unilluminated - 40	5	1 / parcel	Min. 5 ft. setback from ROW	Yes
I	Illuminated - 32 Unilluminated 30	6	1 / parcel	Min. 10 ft. setback from ROW	Yes	



**4.4.7 Wall Signs**

A. Definition. A building-mounted sign which is either attached to, displayed on, or painted on an exterior wall in a manner parallel with the wall surface. A sign installed on a false or mansard roof is also considered a wall sign. Also known as a fascia sign, parallel wall sign, or band sign.



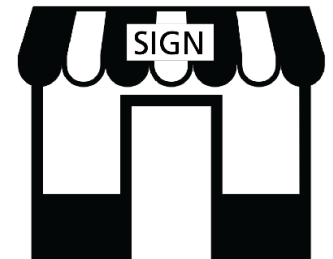
B. Regulations and Standards.

1. No portion of a wall sign shall extend out more than twelve (12) inches from the building wall on which it is affixed.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
WALL	AG-R	20% of façade, not to exceed 100 sq. ft.	12	n/a	- External illumination only	Yes
	R-1	4	6	n/a	- Illumination prohibited	Yes
	R-1: Institutional Uses	20% of façade, not to exceed 50 sq. ft.	14	n/a	- Illumination prohibited	Yes
	R-2	20% of façade, not to exceed 50 sf	14	n/a	- External illumination only	YEs
	MR	Developments: 20% of façade, not to exceed 50 sq. ft.	14	n/a	- External illumination only	Yes
		Individual Lots - 4	14	n/a	- Illumination prohibited	Yes
	C-1, C-2, HCD, I	20% of façade, not to exceed 100 sq. ft.	14	n/a	- External illumination only	Yes
UPV, UPC	20% of façade, not to exceed 50 sq. ft.	14	1 / parcel	- Illumination prohibited	Yes	

**4.4.8 Awning Signs**

A. Definition. A cloth, plastic, or other nonstructural covering that projects from a wall for the purpose of shielding a doorway or window. An awning is either permanently attached to a building or can be raised or retracted to a position against the building when not in use.



B. Regulations and Standards.

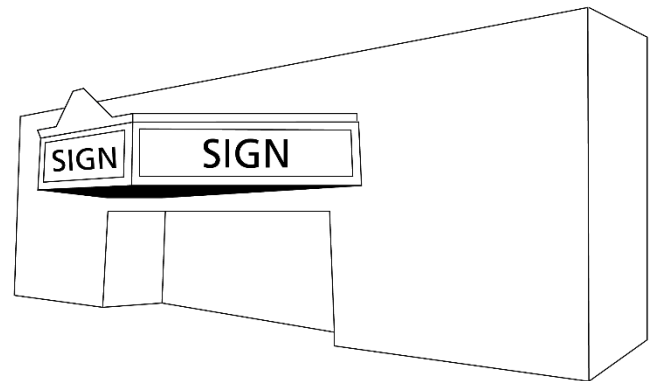
1. Awning signs shall only be allowed on the first floor.
2. Awning signs must be centered within or over architectural elements such as windows or doors.
3. Letters or numerals shall be located only on the front and side vertical faces of the awning.

4. Logos or emblems are permitted on the top or angled portion of the awning up to a maximum of three (3) square feet. No more than one emblem or logo is permitted on any one awning.
5. First floor awning signs shall be a minimum of eight (8) feet above the finished grade.
6. Any ground-floor awning projecting into a street right-of-way must be retractable and shall not extend closer from the curb line than six (6) feet.
7. Awnings above the ground floor may be fixed, provided they do not project more than four (4) feet from the face of the building.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
AWNING	AG-R, HCD developments in MR	50% of awning area	14	n/a	Limited to 1 <sup>st</sup> floor Illumination prohibited Shall be min. 8 ft above grade Shall not project more than 4 ft Allowed to encroach ROW with road agency approval	Yes
	UPV, UPC	25% of awning canopy	14	n/a	Limited to 1 <sup>st</sup> floor Illumination prohibited Shall be min. 8 ft above grade Shall not project more than 4 ft Allowed to encroach ROW with road agency approval	Yes

**4.4.9 Canopy / Marquee Signs**

A. Definition. A sign on a structure other than an awning made of fabric, metal, or other material that is either supported by columns or posts affixed to the ground and may also be connected to a building, or supported by and projecting from a building, and providing protection from the elements.



B. Regulations and Standards.

1. Signage shall only be allowed on the valance area of a canopy or marquee.
2. Shall not extend closer than six (6) feet from the curb line. Any canopy or marquee sign projecting into the street right-of-way shall receive approval

from the governing right-of-way agency prior to being issued a zoning permit.

3. Shall be a minimum of eight (8) feet above the finished grade.

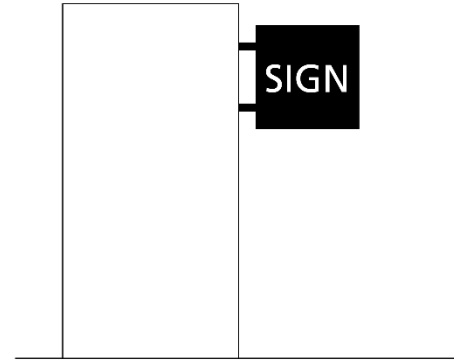
SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
CANOPY / MARQUEE	All Districts except R-1	90% of valance area	n/a	1 / building	Limited to 1 <sup>st</sup> floor Shall be a min. 8 ft above grade Shall not project more than 4 ft Allowed to encroach ROW with road agency approval	Yes

**4.4.10 Projecting Signs**

A. Definition. A building-mounted, double-sided sign with the two faces generally perpendicular to the building wall, not to include signs located on a canopy, awning, or marquee.

B. Regulations and Standards.

1. No portion of a projecting signs shall project more than four (4) feet from the face of the building.
2. Projecting signs shall be a minimum of eight (8) feet above the finished grade.
3. Illumination is prohibited.
4. Projecting signs under an arcade, canopy, or covered porch outside of the right-of-way shall not count towards the maximum square footage allowed.



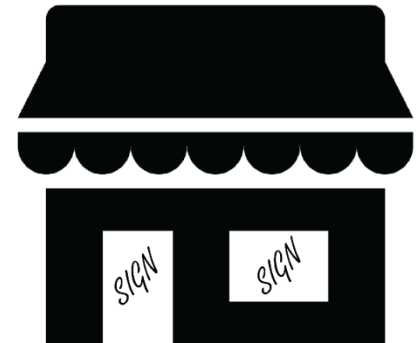
SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
PROJECTING	C-1, C-2, & HCD	8	14	1 / business	<ul style="list-style-type: none"> <li>Maximum square footage is per sign, not cumulative total</li> <li>Limited to 1<sup>st</sup> floor</li> <li>External illumination only</li> <li>Shall be a min. 8 ft above grade</li> <li>Shall not project more than 4 ft</li> <li>Allowed to encroach ROW with road agency approval</li> </ul>	Yes
	UPC, UPV	8	10	1 / business	<ul style="list-style-type: none"> <li>Maximum square footage is per sign, not cumulative total</li> <li>Limited to 1<sup>st</sup> floor</li> <li>External illumination only</li> <li>Shall be a min. 8 ft above grade</li> <li>Shall not project more than 4 ft</li> <li>Allowed to encroach ROW with road agency approval</li> </ul>	Yes

**4.4.11 Window Signs**

A. Definition. Any sign that is applied, painted, or affixed to a window, or placed inside a window, within three (3) feet of the glass, facing the outside of the building, and easily seen from the outside. Customary displays of merchandise or objects and material behind a store window are not considered signs.

B. Regulations and Standards.

1. Illumination shall be prohibited except for neon signs in non-residential zoning districts.
2. Translucent or semi-transparent window signs shall be counted toward the total area limits.

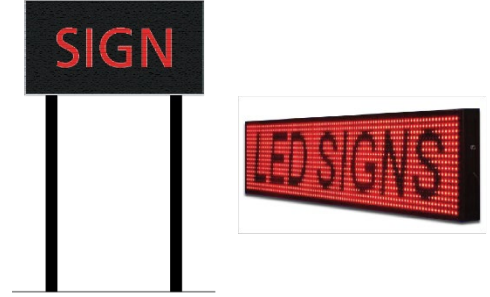


SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
WINDOW	All Districts & Uses	25% of each window	n/a	n/a	<ul style="list-style-type: none"> <li>Illumination prohibited</li> <li>Translucent or semi-transparent portions of window signs shall be counted toward percent of window occupied</li> </ul>	No

#### 4.4.12 Electronic Display Signs

Electronic display signs are subject to the following regulations in addition to all other requirements established in this section.

- A. Definition. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, including animated graphics and video.
- B. Regulations and Standards.
1. Sign Type. Electronic display signs are permitted in the form of freestanding and wall signs.
  2. Height. Electronic display signs shall have the same height limits as freestanding or wall signs for a given district or use.
  3. Area. Electronic display signs shall not exceed thirty (30) percent of the total sign area of a freestanding or wall sign for a given district or use.
  4. Maximum Number. The maximum number of electronic display signs per parcel shall be limited to one (1).
  5. Maximum Luminescence. The sign shall possess automatic dimming capabilities so that the maximum luminescence level is not more than 0.3 footcandles (3.22 lux) over ambient light levels at any time, measured at a distance of 100 feet.
  6. Display.
    - a. The sign display shall not flash, pulsate, move, or scroll is prohibited. Each complete message must fit on one (1) screen.
    - b. The display shall transition by changing instantly, with no transition graphics, such as fading in or out.
    - c. Each display shall be of the same light intensity.
    - d. All display shall have a dark background with light content.
    - e. The display shall not change at an interval less than five (5) seconds.
    - f. Electronic display signs shall contain a default design which shall freeze the sign message in one position if a malfunction should occur.

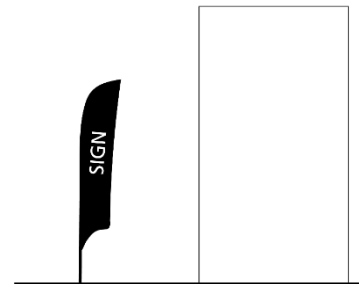


- 7. The addition of an electronic display sign into an existing conforming sign shall require a zoning permit. The addition of an electronic display sign into an existing nonconforming sign shall be prohibited.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
ELECTRONIC DISPLAY	Institutional Uses in Residential Districts, C-1, C-2, HCD, I Districts	16	6	1 / parcel	Shall only be installed as a freestanding sign and shall count toward the maximum area of allowable freestanding signage.	Yes

**4.4.13 Environmentally Activated Signs**

- A. Definition. Signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, feather flag signs, and/or other devices or displays that respond to naturally occurring external motivation.



- B. Regulations and Standards.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
Environmentally Activated Signs	AG-R, C-1, C-2, HCD, UPC, UPV	32	14	3 / parcel	Illumination prohibited May be displayed only during hours when the business is open.	No

**4.4.14 Small Temporary Signs**

- C. Definition. A type of non-permanent sign that is located on private property that can be displayed for a limited duration of time and is not intended to be a permanent display.



- D. Regulations and Standards.

Small temporary signs may be permitted in the right-of-way in the Highway Commercial (C-2) or General Commercial (C-1) districts subject to all applicable standards of this ordinance but shall be removed at the close of business each day.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
SMALL TEMPORARY	AG-R, C-1, C-2, HCD	12	6	n/a	Illumination prohibited	No
	MR	Developments - 12				
		Individual Lots - 8				

**4.4.15 Large Temporary Signs**

- A. Definition. A type of non-permanent sign, permitted to be larger than a small temporary sign, that is located on private property that can be displayed for a limited duration of time and is not intended to be a permanent display.
- B. Regulations and Standards.
  1. Shall be located no closer to the side property line than the principal building.
  2. Large temporary signs may be displayed up to a maximum of ninety (90) consecutive days, two times per year.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
LARGE TEMPORARY	AG-R, C-1, C-2, HCD	16	6	n/a	Illumination prohibited	Yes
	MR	Developments - 24				

**4.4.16 Temporary Signs in Union Pier Districts**

The following regulations for temporary signs shall apply in the Union Pier Districts; Union Pier Village (UPV) and Union Pier Corridor (UPC) due to the greater variety of temporary signs that are possible in the district and the greater degree of control the Township shall need to exercise to maintain walkable and orderly development in the district.

SIGN REGULATIONS & STANDARDS							
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required	
TEMPORARY SIGNS IN UNION PIER DISTRICTS	On-premise commercial advertising	UPV, UPC	16	6	1	<ul style="list-style-type: none"> <li>Illumination prohibited</li> <li>Must be located outside the ROW</li> <li>Permitted duration is 90 consecutive days</li> </ul>	No
	Off-premise commercial advertising	UPV, UPC	3	3	1	<ul style="list-style-type: none"> <li>Must be located outside the ROW</li> <li>Permitted duration is 90 days throughout one calendar year</li> </ul>	Yes
	Banner	UPV, UPC	32	16	1	<ul style="list-style-type: none"> <li>On a corner lot in a commercial or mixed-use district, two (2) signs, one facing each street shall be permitted</li> </ul>	No
	Sandwich Board	UPV, UPC	6 per side	4	1	<ul style="list-style-type: none"> <li>Three (3) feet clear of sidewalk</li> <li>Thirty (30) consecutive days twice per year</li> </ul>	Yes
	Small Flagpoles	UPV, UPC	10	8	1		Yes
	Feather Flag Sign	UPV, UPC	32	12	3	<ul style="list-style-type: none"> <li>Illumination prohibited</li> <li>May be displayed only during hours when the business is open.</li> </ul>	No

**4.4.17 Flags**

- A. Definition. Any sign printed or painted on cloth, plastic, canvas, or other like material attached to a pole or staff and anchored along only one edge or supported or anchored at only two corners.
- B. Regulations and Standards.
  1. Each flag shall be limited in size to three (3) feet by five (5) feet.
  2. Poles shall be limited in height to thirty (30) feet.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
FLAGS	All Districts	45	30	3 / parcel	No single flag shall exceed 3ft. x 5 ft.	No



**4.4.18 Billboards**

A. Definition. An outdoor sign erected for the purpose of advertising a product, event, person, business or subject not related to the premises on which the sign is located. Permitted off-premises directional signs shall not be considered billboards for the purpose of this article.



B. Findings. The Township has made the following determinations regarding billboards:

1. The placement of signs on lots or structures in the Township that exceed the maximum permitted standards of this Section for free-standing signs would result in visual pollution and obstructions of light and air for adjoining lots and uses.
2. Billboard signs are not appropriate in areas zoned for residential uses because the intense nature of the display activity would be harmful to residential property values and incompatible with residential neighborhood quality of life.
3. Billboard signs are not appropriate in the Township’s commercial and mixed-use districts because such signs would be out-of-scale with the structures and limited commercial character of the districts, incompatible with abutting residential uses, and harmful to the promotion of commerce in the districts.
4. Unrestricted display of billboard signs along the arterial streets and thoroughfares in the Township would create visual clutter.

C. Regulations and Standards.

1. Location. All billboards shall be:
  - a. Limited to Industrial (I) district.
  - b. Located on a parcel with direct frontage along a state highway.
2. Spacing and Setbacks. All billboards shall meet the following spacing and setback requirements:
  - a. Setback at least one hundred (100) feet from any existing freestanding sign.
  - b. Setback a minimum of fifty (50) feet from any property line.

- c. Setback at least five hundred (500) feet from any residential zoning district.
  - d. Setback at least five hundred (500) feet from any school, religious institution, hospital, cemetery or government building.
  - e. Minimum spacing between billboards on the same side of the right-of-way shall be one thousand (1,000) feet.
3. Illumination. All illuminated billboards shall meet the following standards:
- a. Except billboards containing electronic display signs as regulated below, all billboards shall be externally illuminated with downward facing, shielded light fixtures.
  - b. Billboard illumination shall be limited to a maximum of 4.52 lux per meter squared beginning one hour after sunrise and continuing until one hour before sunset, and not greater than 0.21 lux per meter squared all other times.
  - c. Electronic display signs shall be permitted to occupy the entire allowable area of the billboard but shall meet all the message display standards in **Section 4.4.12**. Electronic display signs shall be prohibited from being incorporated into any nonconforming billboard.

SIGN REGULATIONS & STANDARDS						
Type	Allowable Districts or use	Max. Area (total sq. ft. for type)	Max. Height (ft.)	Max. Quantity (For type)	Limitations	Permit Required
BILLBOARD D	I	200	30	1 / parcel	Electronic message signs prohibited.	Yes

**4.4.19 Prohibited Signs**

The following signs shall be prohibited in the Township:

- A. No sign or banner shall be placed across any public right-of-way except by permission of the Township and the applicable road agency.
- B. Signs incorporating any manner of flashing, strobe, or moving lights, except for approved electronic display signs.
- C. Animated Signs. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

- 1. Mechanically Activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means, including inflatable signs.
- 2. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds one (1) hour. This prohibition shall not apply to permitted electronic message signs.

D. Signs affixed to benches, trees, or utility poles.

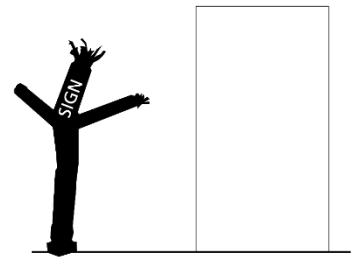
E. Abandoned signs

F. Inflatable signs

G. Roof Signs

H. Pole- or pylon-mounted signs, except associated with the installation of an approved billboard sign.

I. Portable and vehicle signs parked primarily for the purpose of attracting attention to the message contained within.



**4.4.20 Nonconforming Signs**

A legal nonconforming sign may be continued and shall be maintained in good condition, including replacement faces. The nonconforming sign will be allowed to continue, except in the following circumstances:

- A. Increase in Nonconformity. A nonconforming sign shall not be expanded or altered so as to increase the degree of nonconformity of the sign, including a change from a manual changeable letter sign to electronic changeable copy sign.
- B. Structural Deterioration. A nonconforming sign structure shall not continue in instances where the sign structure in question has fallen into a physical state of disrepair.
- C. Re-established After Change in Use. A nonconforming sign shall not be re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent of the appraised replacement cost, as determined by the Building Official.
- D. Substitution. No nonconforming sign structure shall be replaced with another nonconforming sign structure.

**4.4.21 Removal Of Unsafe, Unlawful, or Abandoned Signs**

- A. Unsafe or Unlawful Signs. Upon written notice by Zoning Administrator, the owner, person, or firm maintaining a sign shall remove the sign when it becomes unsafe; is in danger of falling; becomes so deteriorated that it no longer serves a useful purpose of communication; is determined by the Zoning Administrator to be a nuisance; is deemed unsafe by Zoning Administrator; or is unlawfully erected in violation of any of the provisions of this Ordinance. The Township may remove or cause to be removed the sign at the expense of the owner and/or lessee in the event of the owner of the person or firm maintaining the sign has not complied with the terms of the notice within thirty (30) days of the date of the notice. In the event of immediate danger, the Township may remove the sign immediately upon the issuance of notice to the owner, person, or firm maintaining the sign.
  
- B. Abandoned Signs.
  - 1. It shall be the responsibility of the owner of any property upon which an abandoned sign is located to remove such sign within one hundred eighty (180) days of the sign becoming abandoned as defined in this Ordinance. Removal of an abandoned sign shall include the removal of the entire sign including the sign face, supporting structure, and structural trim.
  
  - 2. Where the owner of the property on which an abandoned sign is located fails to remove such sign in one hundred (180) days, the Township may remove such sign. Any expense directly incurred in the removal of such sign shall be charged to the owner of the property. Where the owner fails to pay, the Township may file a lien upon the property for the purpose of recovering all reasonable costs associated with the removal of the sign.

**4.5 STORMWATER MANAGEMENT**

**4.5.1 Intent and Purpose**

The purpose of this section is to provide adequate measures for the retention, detention, and distribution of stormwater in a manner that minimizes adverse impacts on water quality and quantity during development.

**4.5.2 Applicability**

This section applies to any application for development approval required by this ordinance.

**4.5.3 Berrien County Drain Commission Specifications**

No development, other than one-and two-family residential structures, shall take place except in conformity with the stormwater detention requirements specified by the Berrien County Drain Commission.

#### 4.5.4 Additional Provisions

- A. Low Impact Development. Low Impact Development (LID) stormwater management techniques are a set of small-scale stormwater management practices which mimic and work with nature to reduce water runoff and pollutants and provide a natural open space. By incorporating LID practices, the amount of site development area necessary to be dedicated to a traditional stormwater basin can often be decreased substantially. For example, required landscaping areas may also function as bio-swales or retention basins. The use of low-impact stormwater management design techniques may be required, especially in areas adjacent to environmentally sensitive areas or in circumstances where water is proposed to be redirected into environmentally sensitive areas.
- B. Multiuse Facilities. The use of multiuse detention facilities to alleviate existing flooding problems, preserve species habitat, maintain the visual qualities of the community's natural landscapes, or enhance nearby recreational facilities may be required. Multiuse facilities are stormwater management facilities that provide stormwater management functions and other benefits, such as water quality improvement, water recharge, open space, recreation, or habitat. Such facilities shall not increase the rate or volume of erosion resulting from the use of a facility without multiple uses.
- C. Pre-treatment Facilities. Where stormwater will be directed to municipal storm sewer systems, the use of pre-treatment structures such as oil-water separators may be required.

## 4.6 EXTERIOR LIGHTING

### 4.6.1 Intent and Purpose

The provisions of this section are intended to control the use of outdoor, artificial illuminating devices emitting rays into the sky by:

- A. Encouraging good lighting practices such that lighting systems are designed to save energy and money.
- B. Minimizing glare.
- C. Protecting the use and enjoyment of surrounding property.
- D. Increasing nighttime safety, utility, security, and productivity.

### 4.6.2 Standards

- A. Height. The maximum pole height for exterior lighting shall not exceed 14 feet in residential zones and 25 feet in mixed use zones.
- B. Location. Lighting poles shall be located in landscaped areas where possible.

- C. Wall Pack. Wall pack lighting shall be limited to above points of ingress and egress on side and rear facades for security purposes.
- D. Prohibitions. The following light sources and fixtures shall be prohibited:
  - 1. Unshielded luminous tube (neon), fluorescent, or LED lighting used as accent lighting on facades.
  - 2. Metal halide
  - 3. Mercury vapor
  - 4. High pressure sodium
  - 5. Halogen
  - 6. Animated, flashing, or moving lights
  - 7. Laser sources of light
  - 8. Search lights.

#### 4.6.3 Exemptions

The following uses and activities shall be exempt from the standards of this section, provided they do not create glare perceptible to persons operating motor vehicles in the public right-of-way:

- A. New Technology. The Zoning Administrator may grant exceptions to the material, light source, or method of installation standards in this section in consideration of any new state-of-the-art technology, so long as the exception still meets all other applicable standards of this section.
- B. Residential Lighting. Low intensity residential decorative lighting, such as porch lights or low-level façade and landscape lighting, provided any such lights are directed toward the residential building or land.
- C. Holiday Decorations. Provided the decorative exterior lighting shall not include searchlights, floodlights, or stroboscopic lights.
- D. Neon Lights. Displayed in windows or part of an approved sign.
- E. Flag Lighting. Luminaires used for the illumination of the flag of the United States of America.
- F. Temporary Lighting. Associated with an approved temporary event permitted by this Ordinance.

- G. Statutory Authority. Circumstances where Federal or state laws, rules, or regulations take precedence over the provisions of this section, or where fire, police, emergency, or repair personnel need light for temporary or emergency situations, or lighting that is only activated at the time of power outages.

**4.6.4 Illumination**

- A. Intensity. The maximum intensity of light within any site shall not exceed the following standards, measure in footcandles (fc) at grade:

ILLUMINATION INTENSITY	
Lighting Location	Maximum Intensity Allowable
At any point within the site	10.0
Average for the overall site	5.0
At any lot boundary or road right-of-way	0.5

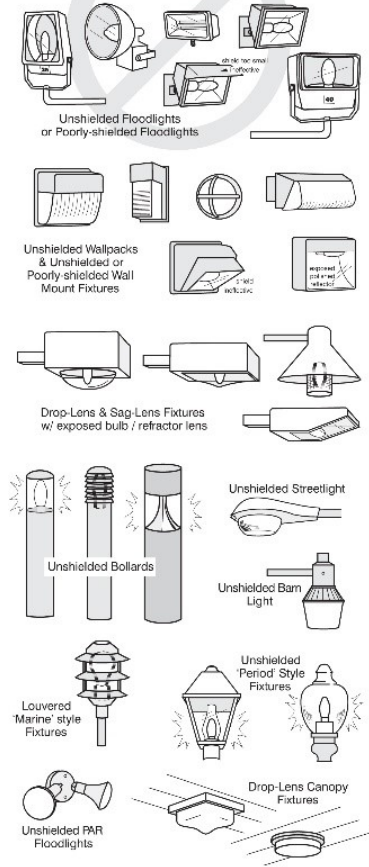
- B. Exceptions. Outdoor vehicle dealerships may permit a maximum lighting intensity of twenty (20) footcandles for paved display areas. Fuel station canopy lights may permit a maximum lighting intensity of twenty (20) footcandles under the canopy provided that all light fixtures shall be recessed into the structure. All other site lighting shall follow this Ordinance.
- C. Color Temperature. All exterior lighting shall emit light measuring 4,000 K or warmer (between 0 K and 4,000 K) on the Kelvin scale.
- D. Brightness. All exterior lighting sources shall be limited to a maximum brightness of eight hundred (800) lumens.

**4.6.5 Shielding And Filtration**

- A. All nonexempt exterior lighting shall be hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way.
- B. All lighting fixtures shall have one hundred (100) percent cut-off shielding that prevents light from being emitted above a horizontal plane.
- C. Light sources shall be located as to minimize the hazards of glare, and all poles or standards used to support outdoor light fixtures shall be coated with a material that minimizes glare for the light source.

**Examples of Acceptable / Unacceptable Lighting Fixtures**

**Unacceptable / Discouraged**  
Fixtures that produce glare and light trespass



**Acceptable**

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



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<b>ARTICLE 5: SUPPLEMENTAL USE STANDARDS</b>	
5.1 Intent & Purpose	5.17 Home Occupations
5.2 Agricultural Tourism	5.18 Kennels
5.3 Automobile Repair	5.19 Landscaping Business
5.4 Automobile Service Stations	5.20 Lumber and Planing Mills
5.5 Bed and Breakfast Establishments	5.21 Lumberyards
5.6 Campgrounds	5.22 Marinas
5.7 Child Day Care Home, Family	5.23 Open Air Businesses
5.8 Commercial Excavation and Dredging	5.24 Outdoor Seating
5.9 Commercial Lodging	5.25 Permanent Private Pools
5.10 Communications Towers	5.26 Personal Wireless Service Facilities
5.11 Contractor Storage Yards	5.27 Recreational Facilities
5.12 Excavation Business	5.28 Recycling Centers
5.13 Food Trucks, Vendor Truck, & Pop-Up Operations	5.29 Religious Institutions
5.14 Golf Facilities	5.30 Renewable Energy Systems
5.15 Group Day Care Homes	5.31 Sexually Oriented Businesses
5.16 Guest Quarters	5.32 Shooting Range
	5.33 Utility and Public Service Buildings

**5.1 INTENT AND PURPOSE**

It is the purpose of this Article to provide regulations for miscellaneous and other requirements that may or may not apply in all zoning districts. In addition to the applicable standards elsewhere in this Ordinance, the following standards apply to specific uses:

**5.2 AGRICULTURAL TOURISM**

- A. The following agricultural or agricultural-related uses and activities are permitted under this section:
  1. Seasonal “U-pick” fruit and vegetable operations.
  2. Roadside market stands.
  3. Outdoor mazes of agricultural origin such as straw bales or corn.
  4. Value-added agricultural products or activities such as education tours, classes, lectures, seminars, or processing demonstrations.
  5. Bakeries selling baked goods containing produce grown primarily on site.
  6. Playgrounds or equipment typical of a school playground, such as slides, swings, etc., not including motorized vehicles and rides.
  7. Petting farms, animal displays, and pony rides.

8. Wagon, sleigh, and hayrides.
  9. Nature trails.
  10. Open air or covered picnic area with restrooms.
  11. Historical agricultural exhibits.
  12. Kitchen facilities processing/cooking items for sale on or off premises.
  13. Gift shops for agricultural or agriculturally related products.
  14. Gift shops for non-agricultural products such as antiques and crafts.
- B. The property must be actively engaged in agricultural operations that comprise at least fifty percent (50%) of the lot. Except as otherwise regulated under the Michigan Department of Agriculture and Rural Development's Generally Accepted Agricultural and Management Practices, the Planning Commission may allow designated parking spaces to be of a gravel or vegetated surface if it is determined to have no discernable negative effect on surrounding property owners.

### 5.3 AUTOMOBILE REPAIR

- A. All repairs shall be conducted within an enclosed building or within a screened area in the rear or side yards.
- B. An opaque fence consisting of decorative materials or a masonry wall with a minimum height of six (6) feet shall surround all areas designated for the temporary outdoor storage of equipment and materials or repairs. The finished side of any fence or wall shall face adjacent properties.
- C. Outside noise shall not exceed sixty (60) dba at any adjoining property line.
- D. Designated parking spaces shall not be used for vehicle storage or repairs.
- E. The selling of vehicles and trailers shall be prohibited on site.
- F. All hazardous materials resulting from the repair operation shall be properly stored and removed from the premises in a timely manner. Storage, use, and removal of toxic substances; solid waste pollution; and flammable liquids, particularly gasoline, paints, solvents, and thinners, shall conform to all applicable Federal, state, and local regulations.

### 5.4 AUTOMOBILE SERVICE STATIONS

- A. All accessory uses and services shall be conducted within a completely enclosed building.
- B. The minimum site lot shall be ten thousand (10,000) square feet.

- C. The proposed site shall have at least one property line abutting a major thoroughfare. The Automotive Services site, or sites, shall be located away from patterns of pedestrian circulation and with direct unencumbered access to traffic arteries.
- D. A raised curb of at least six (6) inches in height shall be erected along all the street property lines, except at driveway approaches. The area used for servicing vehicles within the automotive service station's property lines shall be paved with a permanent surface of concrete or asphalt.
- E. All hazardous materials resulting from the repair operation shall be properly stored and removed from the premises in a timely manner. Storage, use, and removal of toxic substances; solid waste pollution; and flammable liquids, particularly gasoline, paints, solvents, and thinners, shall conform to all applicable Federal, state, and local regulations.

## 5.5 BED AND BREAKFAST ESTABLISHMENTS

### 5.5.1 Intent And Purpose

It is the intent of this section to allow for and regulate bed and breakfast establishments, and to ensure that the property is suitable for transient lodging facilities, the use is compatible with other uses in the agricultural and lower density residential districts, that residential and agricultural lands shall not be subject to increased trespass, and that the impact of the establishment is no greater than that of a private home with house guests. It is the intent to encourage the use and adaptive re-use of historical or architecturally significant buildings in the Township for such bed and breakfast establishments.

### 5.5.2 Permitted Uses

- A. Bed and Breakfast Homes. The following requirements shall apply:
  - 1. No more than five (5) rooms available for rent at any time.
  - 2. Such homes shall not be located on property less than one (1) acre in size.
- B. Bed and Breakfast Inns. The following requirements shall apply:
  - 1. No more than ten (10) rooms available for rent at any time.
  - 2. Such inns shall not be located on property less than five (5) acres in size.

### 5.5.3 General Standards

The following requirements apply to all bed and breakfast homes and inns, together with any other applicable requirements of this Ordinance:

- A. In addition to the sign standards set forth in this Ordinance, bed and breakfast homes and inns shall meet the following requirements:

1. Signs for bed and breakfast homes and inns shall not exceed sixteen (16) square feet in size.
  2. No sign shall be located closer than ten (10) feet from the road right-of-way.
  3. No internally lit signs will be permitted. External sign lighting shall be from an overhead position only shining downward onto the sign face in such a way that results in a minimum reflection of light off the sign face. Light sources shall be shielded from view from adjacent streets and properties by light fixture shields.
- B. The establishment shall be owner-occupied at all times. In the case where a bed and breakfast home or inn has multiple owners, at least one owner shall occupy the establishment at all times. Any other arrangement shall require the approval of the Township.
- C. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for the first two occupants, with an additional thirty (30) square feet for each additional occupant to a maximum of four occupants per room.
- D. In the event the Township determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township may require that fencing and/or a planting buffer be constructed and maintained.
- E. Use of snowmobiles, all-terrain or similar vehicles, boats, or other marine equipment in conjunction with the operation of the establishment shall be prohibited.
- F. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district will be changed substantially in terms of use, traffic generation, or appearance by the occurrence of the bed and breakfast use.
- G. All bed and breakfast homes or inns shall be an active member in the State of Michigan's Bed and Breakfast Association. A copy of all reviews, as part of the association review process, shall be provided to the Township upon completion.
- H. All bed and breakfast homes or inns shall meet all local and state regulations for construction code and fire safety.
- I. All rooms for rent in any bed and breakfast home or inn shall be rented for temporary periods of time. No room shall be used as the primary residence of any non-family renter.

## 5.6 CAMPGROUNDS

Campgrounds shall comply with the provisions of Part 125 of the Michigan Public Health Code, and with the following requirements:

- A. No campgrounds shall be located except with direct access to a major thoroughfare, or with a minimum lot width of not less than fifty (50) feet for the portion used for entrance and exit. No entrance or exit shall be through a residential district or shall require movement of traffic from the campground through a residential district.
- B. The minimum lot area per campground shall be ten (10) acres.
- C. Campsites in campgrounds may be rented by the day, by the week, for indefinite periods, or sold, provided that no site shall be occupied as a permanent or principal residence.
- D. Management headquarters, recreational facilities, toilets, showers, off-street parking areas, laundry facilities, and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses provided that:
  - 1. Such accessory uses shall not occupy more than ten percent (10%) of the area of the campground.
  - 2. Such accessory uses shall be restricted in their use to occupants of the campground and their guests.
  - 3. Such accessory uses shall present no visible evidence of their commercial character which would attract customers other than occupants of the campground and their guests.
- E. No campsite shall be so located that any part intended for sleeping purposes is within one hundred (100) feet of the right-of-way line of any public road or highway. Setback spaces shall be occupied by plant materials and appropriately landscaped. Plant materials shall be of sufficient size when installed to assure immediate and effective screening of the park from adjacent roads and properties. The plans, specifications, and proposed arrangement of such plantings shall be prepared by a registered landscape architect.
- F. The campground site plan shall be subject to the review and approval of the Berrien County Health Department.
- G. Individual campsites are not subject to setback and accessory structure placement requirements that would otherwise be required under this Ordinance.

**5.7 CHILD DAY CARE HOME, FAMILY**

- A. Such facilities shall be located in the permanent residence of the operator.
- B. Such facilities shall have no more than one full-time equivalent non-resident employee.
- C. Such facilities shall operate no more than 16 hours per day. There shall be no outdoor activity, noise, or lighting beyond the boundaries of the site between the hours of 10:00 pm and 6:00 am.

## 5.8 COMMERCIAL EXCAVATION AND DREDGING

- A. Shall be located on major thoroughfare as defined in this ordinance with at least two vehicle travel lanes paved to accommodate heavy trucks.
- B. Minimum lot size shall be five (5) acres with at least two hundred (200) feet of frontage on the major thoroughfare.
- C. The front gate shall be set back at least seventy-five (75) feet from the edge of the pavement of the major thoroughfare.
- D. A security fence as defined in this ordinance and constructed between eight (8) and ten (10) feet high shall completely surround the on-site operations and shall include security materials on top of the fence, however barbed wire shall be prohibited.
- E. An obscuring wall or fence or a vegetated screen as specified in **Section 4.3.6** shall be constructed along the entirety of each adjoining side or rear property line when the adjoining property is used for residential or mixed-use purposes.
- F. On-site lighting shall not spill outside the fence on sides and rear of the property.
- G. Sanitary facilities shall be adequate for workers as defined by County Health Department or other relevant authorities.
- H. The hours of operation for on-site activities that generate noise that can be objectively measureable at adjoining property lines shall be limited to the hours between 8:00 AM to 7:00 PM.
- I. Equipment stored on subject property shall be located in the rear or side yard of the primary structure located on the property.
- J. The site shall conform to all other applicable local, state, and federal laws and regulations for such uses.

## 5.9 COMMERCIAL LODGING

- A. Each unit shall contain at least a bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.
- B. Motels and hotels shall provide customary motel and hotel services, such as housekeeping and desk service.

## 5.10 COMMUNICATIONS TOWERS

### 5.10.1 Intent And Purpose

The intent of this section is to ensure commercial and governmental communication towers are constructed consistently with the New Buffalo Township Zoning Ordinance and placed

in a manner which will protect public health, safety and welfare, and where impact on the surrounding community will be minimized.

### 5.10.2 Wireless Communication Equipment

Wireless Communications Equipment is a permitted use, not subject to special land use approval or any other approval if all the following requirements are met:

- A. The Wireless Communications Equipment will be collocated on an existing wireless communications support structure or existing equipment compound.
- B. The existing wireless communications support structure or existing equipment compound is in compliance with the Township's Zoning Ordinance or has been approved by the Township Zoning Board.
- C. The proposed collocation will not do any of the following:
  - 1. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.
  - 2. Increase the overall width of the wireless communications support structure by more than the minimum necessary to permit collocation.
  - 3. Increase the area of the existing equipment compound to greater than 2,500 feet.
- D. The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the Township Zoning Board.

### 5.10.3 General Standards

Communication towers are permitted, through the Special Land Use Permit process, if all of the following requirements are met:

- D. The communication tower is located in the AG-R, C-1, C-2, or I district, or on property owned by Township government.
- E. The communication tower complies with all applicable FCC and FAA regulations, and all applicable building codes.
- F. Communication towers are subject to review by the Zoning Administrator for compliance with Township site plan review standards as provided in **Section 6.5**.
- G. Communication towers are not to exceed the minimum height needed for the intended purpose. However, under no circumstance may a tower be higher at its highest point than forty (40) feet in the C-1 and C-2 Districts, and fifty (50) feet in the I district. Total height is defined as measured from the pre-construction grade elevation to the highest point on the tower including any attached antennas.

- H. Communication towers must be sited a distance equal to at least seventy five (75) percent of the total height of the tower, from any adjoining lot line.
- I. Supports, guys, and accessory buildings must adhere to minimum zoning district setback requirements.
- J. The design of buildings, cabinets, and all other structures related to communication towers shall incorporate materials, colors, textures, and screening and landscaping that causes them to blend into the natural setting and/or surrounding buildings, and shall be screened from the view of adjacent properties and streets.
- K. Existing mature trees and natural land grades on the site are to be preserved to the maximum extent possible.
- L. The tower shall not use blinking or flashing lights or strobes, unless mandated by the FAA. If lighting is required, the lighting must cause the least disturbance to all surrounding properties and views.
- M. Any tower that is not in operation for a continuous period of twelve (12) months is considered abandoned, and the owner must remove the same within ninety (90) days of receipt of notice from the Township.

Any decision regarding approval or denial of a request to place, construct or modify a communication tower shall be in writing and supported by substantial evidence contained in a written record. Such decisions must be rendered pursuant to the timelines set forth in the Michigan Zoning Enabling Act, section 514.

#### 5.11 CONTRACTOR STORAGE YARDS

Outdoor storage of equipment and materials for contractor establishments shall be allowed under the following conditions:

- A. No equipment or materials shall be stored in the required front, side or rear setbacks.
- B. If a building exists on a parcel, the outdoor storage of equipment and materials shall only occur in the side or rear yards.
- C. An opaque fence consisting of decorative materials or masonry wall with a minimum height of six (6) feet shall surround all areas designated for the outdoor storage of equipment and materials. The finished side of any fence or wall shall face adjacent properties.

#### 5.12 EXCAVATION BUSINESS

- A. Minimum lot size shall be 3 acres.
- B. The business shall be served by a public road.



- C. Equipment storage shall be behind all setback lines.
- D. If a building is located on the premises, it must be served by potable water and human sanitation facilities.
- E. If no buildings are located on the premises, the site must be served with porta-potties and these facilities must be maintained.

### 5.13 FOOD TRUCKS, VENDOR TRUCKS, & POP-UP OPERATIONS

Vendor trucks shall be permitted as a principal or accessory use in the districts specified. Prior to beginning the operation, Vendor Trucks must obtain a Zoning Permit certifying that they meet the following standards.

- A. Food trucks and the distribution of products shall occur solely on private property and on a space paved with hard-surfaced pavement.
- B. All sites with a vendor truck must provide five (5) parking spaces for each truck, plus all required parking for the principal use.
- C. Waste receptacles shall be provided for the general public in the vicinity of the vendor truck. All litter and debris must be removed from site within 48 hours after use. Violation will result in a fine established by the Township Board per each day of violation.
- D. The standards above shall not apply to vendor trucks that do business by traveling on public rights-of-way from neighborhood to neighborhood, such as ice cream trucks. Such vendor trucks shall not be regulated by this Ordinance.
- E. Food trucks, vendor trucks, and pop-up operations may be located within any required yard, provided such use does not interfere with the provision of landscaping required in **Section 4.3**.
- F. In the course of granting a special use permit, the Planning Commission may establish screening requirements in addition to any that may be required in **Section 4.3**.
- G. Food trucks shall not occupy or obstruct the use of any fire lane, required off-street parking facility, or landscaped area required in **Article 4**, or create a traffic or safety hazard as determined by the Planning Commission.
- H. Upon discontinuance of vendor truck uses, any temporary structures shall be removed within 48 hours.
- I. Hours of operation for a vendor truck shall be limited to between 8 am and 9 pm. The zoning administrator may impose further limitations as necessary due to the site's location within the Township, adjacent land uses, or other factors.

- J. Electrical service may be provided only by a temporary service or other connection provided by an electric utility, or by an on-board generator, subject to compliance with all other codes and ordinances.
- K. Food trucks and any associated seating or tables shall maintain a minimum ten (10) foot setback from all driveways, public sidewalks, utility boxes and vaults, ramps for barrier-free access, building entrances, and exits or emergency access ways.
- L. Permanent connections to water and sanitary sewer mains shall be prohibited.
- M. Food trucks, vendor trucks, and pop-up operations shall comply with all relevant County, State, and Federal regulations, and shall demonstrate compliance to the Zoning Administrator prior to receiving a Zoning Permit.
- N. Food trucks, vendor trucks, and pop-up operations shall qualify as a temporary use and require only a zoning permit pursuant to **section 10.9** for approval rather than site plan review.
- O. Any zoning permit for a food truck, vendor truck, or pop-up operation shall be effective for thirty (30) consecutive days beginning on the date it is issued. The permit may be renewed for one additional thirty (30) consecutive-day period within a calendar year provided the use has been conducted in accordance with the requirements of this Ordinance.

## 5.14 GOLF FACILITIES

### 5.14.1 Golf Courses And Country Clubs

- A. These regulations shall not include stand-alone golf-driving ranges and miniature golf courses.
- B. The site area shall be a minimum of fifty (50) acres and have its main ingress and egress from a major thoroughfare.
- C. Development features shall be so located as to minimize any possible adverse effects upon adjacent property. All principal and accessory buildings, structures, and parking areas shall not be less than two hundred (200) feet from any adjoining property line of residentially zoned land.
- D. Whenever a swimming pool is to be provided, said pool shall be located at least one hundred (100) feet from abutting residentially zoned property lines and shall be enclosed with a protective fence six (6) feet in height, with entry limited by means of a controlled gate.

### 5.14.2 Driving Ranges (Standalone)

- A. All sites shall be located on a major thoroughfare and all ingress and egress to the site shall be from said thoroughfare.

- B. Whenever a driving range abuts property within any residential or mixed-use district, a transition strip at least two hundred (200) feet in width shall be provided between all operations and structures, including fences, and the residential property. Plant materials, grass and structural screens or fences of a type approved by the Planning Commission shall be placed within said transition strip.
- C. A minimum yard of one hundred (100) feet shall separate all uses and operations permitted herein, including fences, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Planning Commission.

**5.15 GROUP DAY CARE HOMES**

- A. A drop off/pick up area shall be provided for access from the public street that permits vehicles to exit the property without backing into the street.
- B. Fencing no less than four (4) feet or more than six (6) feet in height shall be provided around all outdoor recreation areas.
- C. There shall be a contiguous open space of a minimum of 1,200 square feet provided on the subject parcel. Said open space shall not be located within a required front yard setback area. This requirement may be waived by the Township Board if public open space is available within 500 feet of the subject parcel, measured from the nearest lot line of the use to the nearest lot line of the public open space.

**5.16 GUEST QUARTERS**

- A. Guest quarters shall include sleeping and bathroom facilities, but shall not include cooking facilities.
- B. No guest quarters shall be rented separately from the main sleeping quarters.
- C. Guest quarters may exist within the primary structure or within an attached or detached accessory building.

**5.17 HOME OCCUPATIONS**

Home occupations may be carried on in a dwelling or accessory building to that dwelling only under the following conditions:

- A. Customary home occupations such as instruction in a craft or fine art, cottage industries, specialty catering, professional offices, tailoring services, bookkeeping, accounting, real estate, and insurance sales and similar gainful employment shall only be permitted.
- B. Home occupations shall only be permitted when carried on by the occupant of the dwelling.

- C. A home occupation shall not be allowed if the essential character of a lot or building within a zoning district (in terms of use, traffic generation, noise, odor, vibration, electrical interference or appearance, including signage) is changed by the home occupation. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the building.
- D. A home occupation shall not be allowed that commonly has regularly scheduled appointments arriving on a frequent basis within an interval of two hours or less.
- E. The area utilized for the home occupation shall not exceed twenty five percent (25%) of the floor area of one story of the dwelling whether or not the dwelling or an accessory building is so utilized
- F. All activities involved in the home occupation (other than parking) shall take place within the dwelling or accessory building.
- G. Professional offices shall be occupied by not more than one professional practitioner with no more than one full time equivalent employee unless all additional persons employed are members of the family occupying the principal structure.
- H. No retail or other sales shall be permitted on the premises unless they are clearly incidental and directly related to the conduct of the home occupation.
- I. The principal use of the parcel shall be a dwelling and the operator of a home occupation shall make the dwelling unit within which the home occupation is conducted his or her legal and primary place of residence, where all activities such as sleeping, eating, entertaining and other functions and activities normally associated with home life are conducted.
- J. All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.

#### 5.18 KENNELS

- A. The minimum lot area shall be five (5) acres for the first five (5) animals, and an additional five thousand (5,000) square feet for each animal in addition to the first five (5). The Planning Commission may reduce this requirement based on site conditions.
- B. Buildings used as Kennels shall not occupy more than twenty-five percent (25%) of the lot except as pasture for animals.
- C. The applicant shall declare, as part of the special land use application, the maximum number of animals intended to be housed at the facility. Newborn animals not yet weaned shall not be counted toward such maximum.

- D. Buildings where animals are kept, dog runs, tethers, and exercise areas shall not be located nearer than fifty (50) feet from any adjoining property line. Additional landscape screening, berms, or fencing may be required by the Planning Commission.
- E. Dog runs and exercise areas shall not be located within any front yard.
- F. All principal use activities, other than outdoor dog runs, tethers, or exercise areas, shall be conducted within a completely enclosed building.
- G. An animal waste management plan shall be provided by the applicant. Animal waste must be managed in a manner so as not to be a hazard to health or a nuisance to neighbors.
- H. All required state and local licenses and permits shall be obtained and maintained in good standing at all times.
- I. Noise emanating from a kennel shall not be objectively measurable at a volume of 55 decibels, db(A) or greater at any adjoining property line.

**5.19 LANDSCAPING BUSINESS**

- A. The front yard shall be a minimum fifty (50) feet from the edge of any adjoining right-of-way.
- B. Side yards shall be a minimum fifty (50) feet from the side lot line unless a ten (10) foot high opaque fence is created along the side lot line.
- C. If the fence specified in item B is created, the setback follows the underlying district regulations. Side yard setback shall be increased to one hundred (100) feet for any lot line adjoining residential or mixed-use property. Rear lot lines shall follow the underlying District regulations or be one hundred (100) feet from an adjoining residential or mixed-use zoned property.

**5.20 LUMBER AND PLANING MILLS**

- A. The principal and accessory buildings and structures used as lumber and planing mills shall not be located within three hundred (300) feet of any residential property line.

**5.21 LUMBERYARDS**

- A. The lot area used for parking, display, or storage shall be paved or surfaced and shall be graded and drained so as to dispose of all surface water.
- B. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

**5.22 MARINAS**

- A. No building, structure, dock, or parking area which is part of the marina shall be located closer than fifty feet to any residential lot line.
- B. On-land boat storage areas shall be either inside an enclosed building, or fenced and screened.

**5.23 OPEN AIR BUSINESSES**

- A. Parking shall be set back a minimum of fifteen (15) feet from any road right-of-way line. The area between the parking and the road right-of-way shall be landscaped in accordance with **Section 4.3.5**.
- B. The minimum lot width for open-air businesses shall be two hundred (200) feet.
- C. All loading and parking areas for open-air businesses shall be confined within the boundaries of the site and shall not be permitted to spill over onto adjacent roads.

**5.24 OUTDOOR SEATING**

Outdoor seating for restaurants, bars, coffee shops, ice cream shops, and other businesses in commercial zones shall meet the following requirements.

- A. Businesses proposing outdoor seating shall submit a site plan showing the layout of the outdoor seating area for a site plan review by the Planning Commission.
- B. The hours of operation for the outdoor seating shall be included on the site plan and are subject to Planning Commission approval.
- C. Outdoor seating shall be included in the calculation of required parking for the principal use of the site, and any additional required parking spaces triggered by the addition of outdoor seating must be constructed before the outdoor seating can be used.
- D. Outdoor seating shall be subject to review and approval by the Fire Department and all relevant County or State approvals.

**5.25 PERMANENT PRIVATE POOLS**

Permanent private pools shall be permitted as an accessory structure within the rear and side yard only, provided they meet the following requirements:

- A. No swimming pool, indoor or outdoor, may be installed, placed or constructed except in conformance with the Township building code and the Michigan Construction Code Act, Michigan Public Act 230 of 1972 as amended, and rules and regulations thereto. Water supply, filtration systems, electrical systems, and pumps shall be subject to the approval of the Building Department.

- B. An outdoor swimming pool must comply with the front and side setback requirements for an accessory building. Notwithstanding any other provision of this Ordinance, the mandatory rear setback for an outdoor swimming pool shall be ten feet.
- C. For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a fence not less than 4 feet in height. The gates shall be of a self-closing and latching type with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked for extended periods.

## 5.26 PERSONAL WIRELESS SERVICE FACILITIES

### 5.26.1 Intent And Purpose

The Telecommunications Act of 1996 sets forth provisions concerning siting and construction of personal wireless services facilities, and Title 47 of the United States Code expressly preserves local zoning authority and allows for the regulation of placement, construction and modification of personal wireless service facilities in Section 332(c)(7). Without coming into conflict with this Federal law, it is the purpose of this Article to otherwise regulate the siting and construction of such facilities within the Township.

### 5.26.2 General Standards

All Personal Wireless Service Facilities shall be subject to the following general standards:

- A. Multiple Antenna/Tower Plan. The Township encourages the submission of a single application for approval of multiple tower and/or antenna sites simultaneously. Applications for approval of multiple sites shall be given priority.
- B. Inventory of Existing Sites. All applicants for a permit for a new tower shall provide to the Zoning Administrator an inventory of their existing towers that are either within the Township or within two miles of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator will share available information upon written request.
- C. Application Process. Upon request, the Zoning Administrator shall provide applications for Personal Wireless Service Facilities to any resident of the Township. Applications shall be considered on a first-come first-served basis, subject to the priority given to multiple sites in paragraph A. Any application received shall be considered by the Zoning Administrator and a decision shall be issued within a reasonable time. Any rejection/denial of an application must be supported by substantial evidence in a written record.
- D. Placement in Road Right-of-Ways Prohibited. Personal wireless service facilities shall not be placed in any road right-of-way or in any easement for road purposes.
- E. Lot Size. The minimum lot size for a personal wireless service facility shall be as per this Ordinance for a dwelling unit the zoning district in which the facility is located. The Zoning Board of Appeals shall not reduce this minimum lot size.

- F. Setbacks. The personal wireless service facility shall not be within any setbacks for the zoning district where the Facility is located. Also, no tower shall be placed closer than one hundred percent (100%) of its height from any lot line or from any dwelling unit, to the extent possible.
- G. Airport and FAA Approval. Any approval required by the FAA shall be sought and obtained prior to any approval by the Township under this Section.
- H. State and Federal Requirements. All personal wireless service facilities must meet or exceed current regulations of the FAA, the FCC, and any other agency of the state or Federal government with regulatory authority. If such regulations are changed, then the owners of the personal wireless service facilities governed by this Ordinance shall bring such facilities into compliance with the revised regulations within six months of the effective date of such regulations, unless a different compliance schedule is mandated by the controlling state or Federal agency.
- I. Environmental Impact of Radiofrequency Emissions. No applicant that is compliant with FCC emission standards may be denied because of the environmental impact of radiofrequency emissions.
- J. Building Codes. Personal wireless service facilities shall be maintained in compliance with standards contained in the applicable state or local building codes and any applicable standards for such facilities that are published by the Electronic Industries Association.
- K. Construction. Personal wireless service facilities shall be constructed so as to be as compatible with their surroundings as possible, and shall thereby meet the following requirements:
1. A service building associated with personal wireless service facilities shall be constructed using materials, colors, textures, screening, and landscaping that will blend such facilities into the natural setting. In the alternative, such a building may be designed to architecturally match the exterior of buildings within three hundred feet of the property on which they are located, in which case the building shall be constructed of compatible materials such as wood, brick, or stucco. Metal exteriors shall not be allowed for a building associated with Personal Wireless Service Facilities.
  2. Personal wireless service facilities shall be landscaped and fenced as follows:
    - a. Landscaping shall consist of a five (5) foot wide buffer of plant materials that effectively screens the view of the tower compound from adjacent parcels. This buffer shall be located outside the perimeter of the compound.
    - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.



- c. Existing vegetation and natural land forms on the site shall be preserved to the maximum extent possible.
  3. All connecting wires from towers to service buildings shall be underground, to the extent possible.
  4. All electrical and other service wires to the personal wireless service facility shall be underground, to the extent possible.
  5. Service buildings shall be no larger than necessary to house equipment and shall meet all setback requirements of this Ordinance for such structures.
  6. If, at the time of initial construction, the proposed tower layout is a co-location site, which provides service to other use providers, then the building shall be designed to accommodate all use providers at that time. Co-location shall not be cause for additional buildings on site.
  7. The Planning Commission may, at its sole discretion, require that the tower be camouflaged to resemble a tree, or otherwise be made to be less obtrusive, if doing so would be consistent with promoting the public's health, safety, and welfare.
- L. Tower Construction. To minimize visual impact, monopole towers are required. Towers shall be finished in a single, non-reflective, matte-finished color.
- M. Antenna Types. Singular tube antenna types, such as omnidirectional antennas or arrangements that use compact-type platforms, instead of broad designed-type sectorized antenna arrays, shall be preferred for all applications.
- N. Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design must cause the least disturbance to the surrounding views. All light sources shall be located and designed so as to prevent light from being directed outside the boundaries of the property. Light poles and fixtures shall be located as low as practical; a greater number of low area lights are favored over higher lights. Strobe lights shall not be allowed except as required by the FAA. All exterior lighting shall be from high pressure sodium light sources with shielded down lighting and non-projecting lenses.
- O. Signs. No signs, advertisements, or identification of any kind intended to be visible from the ground or other structures shall be allowed on an antenna or tower, except as required for emergency purposes.
- P. Safety. All personal wireless service towers shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not

present. A sign shall be posted near the tower or operations and maintenance building that will contain emergency contact information.

- Q. Tower Heights/Co-location. Towers may exceed height limits in the zoning district, providing they comply with the following additional standards:
1. In order to maximize the efficiency of the provision of telecommunication services, while minimizing the impact of such services on the Township, co-location shall be required by the Township.
  2. The applicant shall be required to provide information regarding the feasibility of co-location of antennas at proposed sites. Factors to be considered in determining feasibility of co-location include available space on existing towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, and any FCC limitations on sharing towers.
  3. The applicant shall be required to send a certified mail announcement to all other tower users in the area, stating their siting needs and/or sharing capabilities in an effort to encourage tower sharing. The applicant shall not be denied or deny space on a tower unless the applicant demonstrates, to the satisfaction of the Township, that mechanical, structural, or regulatory factors prevent them from sharing.
  4. The applicant may be required to provide a letter of intent to lease excess space on a tower and commit to:
    - a. Respond to any requests for information from another potential shared use applicant.
    - b. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is practicable.
    - c. Make no more than a reasonable charge for a shared use lease.
    - d. Once a co-location-type tower has received a special land use approval, the Zoning Administrator may approve such co-location antennas without review by the Planning Commission.
  5. Tower height may be no more than required according to engineering requirements for a specific site or the technical capabilities of the antennas being mounted. The applicant shall provide funds to the Township determined by the Township Board to be sufficient to acquire an independent technical and engineering evaluation of the need for any tower in excess of the maximum height in that zoning district. Where the independent evaluation shows that service can be provided by a lower tower, no tower in excess of the maximum height in that zoning district

shall be allowed. The Zoning Board of Appeals shall not grant a variance from this requirement.

- R. Separation from Residential Areas: Towers shall be set back at least two hundred (200) feet from all existing residential structures and all Residential zoning districts.
- S. Separation Between Towers. Tower separation distances between proposed and pre-existing monopoles over thirty five (35) feet in height shall be one thousand five hundred (1,500) feet. Separation distances between lattice and guyed towers shall be five thousand (5,000) feet.

**5.27 RECREATIONAL FACILITIES**

- A. Facilities are to be constructed, maintained, and operated by an incorporated, non-profit club or organization, or for-profit commercial entity.
- B. The minimum site size shall be five (5) acres with a minimum width of two hundred (200) feet.
- C. In those instances where the proposed site is intended to serve club or organization members who reside beyond the immediate neighborhood or subdivision in which the proposed site is located, the site shall be located on a major thoroughfare and all ingress and egress for the site shall be from said thoroughfare.
- D. A front yard setback of fifty (50) feet shall be provided.
- E. Off-street parking may be located in a side or rear yard provided that it is not located closer than fifty (50) feet to any adjacent property in the residential zoning districts.
- F. An outdoor swimming pool shall be permitted in the rear yard only, located at least one hundred (100) feet from any adjoining property in the residential zoning districts. The pool shall be enclosed with a protective fence six (6) feet in height with entry provided by means of a controlled gate.

**5.28 RECYCLING CENTERS**

- A. A six (6) foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
- B. The principal and accessory buildings and structures shall not be located within 200 feet of any residential use or district property line.
- C. All hazardous and toxic materials shall be properly handled, stored, and contained.

## 5.29 RELIGIOUS INSTITUTIONS

In recognition of many institutional uses that have been found to be reasonably compatible with residential uses, the Township may authorize the construction, maintenance, and operation of religious uses.

- A. Religious institutions in the residential and agricultural zoning districts shall require a minimum lot size of one (1) acre.
- B. Such uses shall be duly licensed by the Michigan Department of Licensing and Regulatory Affairs.
- C. Fencing of outdoor play areas may be required should it be determined that conditions exist in the immediate vicinity which could be hazardous to the user, children, or the public hearing on the application for a special use permit indicates objectionable trespass could occur onto neighboring properties by the user children.
- D. The property shall be located in such a way that at least one side of the property adjoins and has access to a major thoroughfare.

## 5.30 RENEWABLE ENERGY SYSTEMS

### 5.30.1 Intent And Purpose

The intent and purpose of this section is to allow residents and business owners to generate renewable energy sources in order to reduce their reliance on fossil fuel-based energy sources, reduce energy utility costs, and mitigate any negative effects such systems may have on neighboring properties, citizens of the Township of New Buffalo, economic opportunities, and visitors.

### 5.30.2 Personal Solar Energy Collection Systems (SECS)

Personal Solar Energy Collection Systems (SECS) with a rated capacity of no more than 10 kW shall be permitted an accessory use in districts as set forth in **Article 3** to distribute generated energy primarily on site for consumption; however, excess energy output may be delivered to the power grid, subject to the following standards:

- A. Ground Mounted Personal SECS
  - 1. Height: Ground Mounted Personal SECS shall not exceed the height of an allowed accessory structure within the zoning district when oriented at maximum tilt.
  - 2. Placement: Ground Mounted Personal SECS must meet the accessory structure setback and height requirements for the zoning district in which it is installed.
  - 3. Coverage: Ground Mounted Personal SECS may not exceed the area restrictions placed on accessory structures within the subject zoning district.

4. Visibility: Ground Mounted Personal SECS shall be screened from view to the extent possible without reducing their efficiency. Screening may include walls, fences, or landscaping.

B. Roof or Building Mounted Personal SECS:

1. Height: Roof or Building Mounted Personal SECS shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar systems other than building-integrated solar systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.
2. Placement:
  - a. The collector surface and mounting devices for Roof or Building Mounted Personal SECS shall not extend beyond the required setbacks or height requirements for the zoning district in which it is installed.
  - b. Building Mounted Personal SECS shall be prohibited from being located on any front façade.
  - c. Building or Roof Mounted Personal SECS shall be allowed on any principal or accessory structure.
3. Coverage: Building or Roof Mounted Personal SECS shall be allowed to cover the entire roof or façade where permitted to be installed.
4. Visibility: Building or Roof Mounted Personal SECS shall be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way other than alleys or railroad rights-of-way. The color of the solar collector is not required to be consistent with other roofing materials. Building integrated solar systems shall be allowed regardless of visibility, provided the building component in which the system is integrated meets all required setback, land use, and performance standards for the zoning district in which the building is located.

### 5.30.3 Commercial Solar Energy Collection Systems (SECS)

Commercial Solar Energy Collection Systems (SECS) with a rated capacity of 10 kW or more shall be permitted as an accessory or principal special land use in districts as set forth in **Article 3** to distribute generated energy on site or commercially through the power grid system subject to the following standards:

A. Ground Mounted Commercial SECS

1. Height: The maximum height of a Ground Mounted Commercial SECS shall be sixteen (16) feet above grade at maximum tilt.
2. Placement: Ground Mounted Commercial SECS shall be setback a minimum of fifty (50) feet from all property lines and public right-of-ways, and fifty (200) feet from any residential zoning district or use.
3. Coverage: The maximum allowable lot coverage of a Ground Mounted Commercial SECS, including solar panels and all other structures, shall be 80%. Ground-mounted SECS shall be otherwise exempted from the coverage standards in the respective zoning district, however, all other dimensional standards, including setbacks shall apply.
4. Visibility: Ground Mounted Commercial SECS shall be screened on all sides with a vegetated screen or green belt at a minimum height of eight (8) feet.
5. Number: There shall be no limit to the number of Ground Mounted Commercial SECS on a given property.

B. Roof or Building Mounted Commercial SECS

1. Height: The maximum height of a Roof or Building Mounted Commercial SECS shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar systems other than building-integrated solar systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.
2. Placement: The collector surface and mounting devices for Roof or Building Mounted Personal SECS shall not extend beyond the required setbacks or height requirements for the zoning district in which it is installed.
3. Coverage: Building or Roof Mounted Personal SECS shall be allowed to cover the entire roof or façade where permitted to be installed.
4. Visibility: Building or Roof Mounted Personal SECS shall be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way other than alleys or railroad rights-of-way. The color of the solar collector is not required to be consistent with other roofing materials. Building integrated solar systems shall be allowed regardless of visibility, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the zoning district in which the building is located.
5. Number: There shall be no limit to the number of Ground Mounted Commercial SECS on a given property.

#### 5.30.4 Solar Energy Conversion System Approval Standards

In addition to all applicable district, site plan review, and special land use approval standards, the following approval standards shall apply to all SECS:

- A. Safety: Emergency and normal shutdown procedures shall be identified with the application, along with any potential hazards to adjacent properties, public rights-of-way, and to the general public that may be created. A security fence (height and material to be proposed and reviewed/approved through the special land use approval process) shall be placed around the perimeter of Ground Mounted Commercial SECS and electrical equipment. Knox boxes and keys shall be provided at locked entrances for security personnel access.
- B. Visual Impact: SECS shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or rights-of-way at any time of the day. Support structures shall be of a single, nonreflective matte finish of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the structure. The applicant shall avoid state or Federal scenic areas and significant visual resources in local, state, or Federal historic registers.
- C. Noise: SECS shall have a maximum noise production rating of fifty (50) dBA and shall conform to this standard under normal operating conditions as measured at any property line.
- D. Electromagnetic and Telecommunication Interference: No SECS shall interfere with electromagnetic or telecommunication systems.
- E. Lighting: SECS shall have no installed or accessory lighting, unless required by Federal or state regulations.
- F. Intent to Install: Prior to the installation or erection of a SECS, the operator must provide evidence showing their regular electrical service provider has been informed of the customer's intent to install an interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.
- G. Signs: A Commercial SECS operator is required to provide a single posting, not to exceed four (4) square feet, at the entrance of a Commercial SECS prohibiting trespassing, warning of high voltage, and providing the emergency contact information for the operator.
- H. Feeder Lines: Any lines accompanying a SECS, other than those contained within the SECS structure or those attached to on-site structures by leads, shall be buried within the interior of the subject parcel, unless there are existing lines in the area which the lines accompanying a SECS can be attached.
- I. Construction Codes and Interconnection Standards: Utility systems shall comply with all applicable state construction and electrical codes and local building permit

requirements, Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Michigan Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Michigan Public Act 259 of 1959, MCL 259.481 et seq.), applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground.

### 5.30.5 Personal Wind Energy Conversion Systems (WECS)

Personal Wind Energy Conversion Systems (WECS) with a rated capacity of no more than 100 kW shall be permitted as an accessory special land use in districts as set forth in **Article 3** to distribute generated energy primarily on site for consumption; excess energy output may be delivered to the power grid, subject to the following standards:

#### A. Ground Mounted Personal WECS

1. Height: Personal WECS shall have a total height, including tower and blade to its highest point of travel, of no more than sixty (60) feet above the average finished grade of the lot.
2. Placement:
  - a. Shall not be located between a principal structure and a public street, unless the Township determines that such a location would lessen the visibility of the Personal WECS or would lessen the negative impacts of such a WECS on nearby properties.
  - b. Have a minimum setback distance from the base of the monopole of one (1) times the height from any property line, public right-of-way, electric substation, transmission line, or other WECS.
3. Number: One (1) Personal WECS shall be allowed on a single lot up to one (1) acre in size, and one (1) per each additional five (5) acres.

#### B. Roof Mounted Personal WECS:

1. Height: Total height of not more than twenty-five (25) feet, measured from the top of the roof to the blade tip at its highest point of travel.
2. Placement: Roof mounted WECS must be erected above the roof of a building or structure. The mounts associated with the WECS may extend onto the side of the building or structure.
3. Number: No more than three (3) roof mounted WECS shall be installed on any rooftop.



### 5.30.6 Commercial Wind Energy Conversion Systems (WECS)

Commercial Wind Energy Conversion Systems (WECS) with a rated capacity of 100 kW or more shall be permitted as an accessory or principal special land use in districts as set forth in **Article 3** to distribute generated energy on site or commercially through the power grid system subject to the following standards:

#### A. Ground Mounted Commercial WECS

1. Height: Commercial WECS shall have a total height, including tower and blade to its highest point of travel, of no more than one hundred twenty five (125) feet.
2. Placement:
  - a. Shall not be located between a principal structure and a public street, unless the Township determines that such a location would lessen the visibility of the Commercial WECS or would lessen the negative impacts of such a WECS on nearby properties.
  - b. Minimum setback distance from the base of the monopole of one (1) times the height from any property line, electric substation, transmission line, or other WECS. In addition, the setback distance must be increased by twenty-five (25) feet from any property that is zoned or planned for residential.
  - c. Minimum setback distance from the base of the monopole of one and one-half (1-1/2) times the height from any public right of way, occupied structure, or public use area.
  - d. Minimum setback distance from the base of the monopole of six hundred (600) feet from any property designated as a public park.
3. Number: (1) Large WECS. One (1) large WECS shall be allowed on a single lot of one (1) to five (5) acre(s). All other larger parcels will be limited to one (1) large WECS per five (5) acres of land area.

#### B. Roof Mounted Commercial WECS

1. Height: Total height of not more than twenty-five (25) feet, measured from the top of the roof to the blade tip at its highest point of travel.
2. Placement: Roof mounted WECS must be erected above the roof of a building or structure. The mounts associated with the WECS may extend onto the side of the building or structure.
3. Number: The maximum number of Roof Mounted Commercial WECS shall be approved through the special land use permit process.

### 5.30.7 Wind Energy Conversion System Approval Standards

In addition to all applicable district, site plan review, and special land use approval standards, the following approval standards shall apply to all WECS:

- A. Safety: All WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six (6) feet above the guy wire ground anchors. The site shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system.
- B. Visual Impact: A WECS project shall use tubular towers with all components of the system finished in a single, nonreflective matte finish of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or Federal scenic areas and significant visual resources listed in local, state, or Federal historic registers.
- C. Environmental Impact: The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical sites, and birds and wildlife. The applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that shall remain after mitigation efforts. The applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Michigan Public Act 451 of 1994, MCL 324.101 et seq.)
- D. Noise: Have a maximum noise production rating of fifty (50) dBA and shall conform to this standard under normal operating conditions as measured at any property line.
- E. Electromagnetic Interference
  1. No WECS shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that shall restore reception to at least the level present before operation of the wind energy system.

2. No WECS shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation, unless the interference is insignificant.
- F. Shadow Flicker: The applicant shall conduct an analysis on potential shadow flicker at occupied structures. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the effects.
- G. Lighting: No installed or accessory lighting is permitted unless required by Federal or state regulations.
- H. Intent to Install: Prior to the installation or erection of a WECS, the operator must provide evidence showing their regular electrical service provider has been informed of the customer's intent to install an interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.
- I. Signs: A WECS operator is required to provide a single posting, not to exceed four (4) square feet, at the base of a WECS prohibiting trespassing, warning of high voltage, and providing the emergency contact information for the operator.
- J. Feeder Lines: Any lines accompanying a WECS, other than those contained within the WECS' tower or those attached to on-site structures by leads, shall be buried within the interior of the subject parcel, unless there are existing lines in the area which the lines accompanying a WECS can be attached.
- K. Clearance: Rotor blades or airfoils must maintain at least 20 feet of clearance between their lowest point and the ground.
- L. Blade Design: The blade design and materials must be engineered to ensure that surrounding uses may be continued safely.
- M. Construction Codes, Towers, and Interconnection Standards: Utility systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements, Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Michigan Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Michigan Public Act 259 of 1959, MCL 259.481 et seq.), applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground.

### 5.30.8 Abandonment

- A. Any Personal or Commercial SECS or WECS that is allowed to remain in a nonfunctional or inoperative state for a period of twelve (12) consecutive months, and which is not brought in operation within the time specified by the Township, shall be presumed abandoned and may be declared a public nuisance subject to removal at the expense of the operator.
- B. Any Commercial SECS or WECS shall submit with their special land use application a decommissioning and final reclamation plan after the anticipated useful life or abandonment/termination of the project. This includes supplying evidence of an agreement with the underlying property owner that ensures proper removal of all equipment and restoration of the site within six (6) months of decommissioning or abandonment of the project. To ensure proper removal of the project upon abandonment/termination, a bond, letter of credit, or cash surety shall be:
  - 1. In an amount approved by the Township Board to be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments;
  - 2. Based on an estimate prepared by the engineer for the applicant, subject to approval of the Township Board;
  - 3. Provided to the Township prior to the issuance of a zoning permit;
  - 4. Used in the event the owner of the project or the underlying property owner fails to remove or repair any defective, abandoned, or terminated project. The Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the project and recover any and all costs, including attorney fees.

## 5.31 SEXUALLY ORIENTED BUSINESSES

### 5.31.1 Intent and Purpose

It is the intent of this section to regulate the location and operation of sexually oriented businesses within the Township, and to minimize their negative secondary effects, but not to exclude these businesses. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable characteristics which cause negative secondary effects on nearby residential, educational, religious, and other public and private uses. The regulation of sexually oriented businesses is necessary to ensure that these negative effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of Township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this section to legitimize activities which are prohibited by Township Ordinances or state or Federal law. If any portion of this Ordinance

relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced, and/or revised to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

#### 5.31.2 General Standards

- A. No sexually oriented business shall be greater than five thousand (5,000) square feet.
- B. No sexually oriented business shall be established on a parcel within five hundred (500) feet of any residence, public or private school, church, public park, or state licensed child care facility.
- C. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) or zoning district identified in item (B) above.
- D. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
- E. The proposed use shall conform to all specific density and setback regulations of the zoning district in which it is located.
- F. The proposed use must meet all applicable written and duly promulgated standards of New Buffalo Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- G. The outdoor storage of garbage and refuse shall be contained, screened from view, and located so as not to be visible from neighboring properties or adjacent roadways.
- H. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- I. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that state:

1. "Persons under the age of 18 are not permitted to enter the premises", and
  2. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- J. No product or service for sale or gift, or any picture or other representation of any product or service or gift, shall be displayed to be visible from the nearest adjoining sidewalk, street, or a neighboring property.
- K. Hours of operation shall be limited to 12:00 pm (noon) to 12:00 am (midnight).
- L. Any booth, room, or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
1. Shall be handicap accessible to the extent required by the Americans With Disabilities Act.
  2. Shall be unobstructed by any door, lock, or other entrance and exit control device.
  3. Has at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
  4. Is illuminated such that a person of normal visual acuity looking into the booth, room, or cubicle from its entrance adjoining the public lighted aisle can clearly determine the number of people within.
  5. Has no holes or openings in any interior or exterior walls not relating to utility, ventilation, or temperature control services or otherwise required by any governmental building code or authority

### 5.32 SHOOTING RANGE

- A. Sound control and other systems shall be provided which will protect the users and employees of the range as well as neighboring properties.
- B. In no case shall there be the disposal of rubbish, litter, or other by-products of the range in such a manner as to be obnoxious, offensive, or in conflict with the general public health, safety, and welfare.
- C. In all cases, the range shall use best management practices in dealing with lead, lead dust, and other lead byproducts of a Shooting Range.

- D. The building materials and architectural systems used in the Shooting Range shall be designed and constructed in a manner which will prevent projectiles from penetrating the walls or ceilings and contain all projectiles.
- E. An indoor range may include a commercial operation area for the sale of guns or ammunition and ancillary equipment, provided this area is ancillary to the primary use as an indoor Shooting Range.
- F. Copies of all Federal, state, county or local permits or licenses must be submitted to the Township.

### 5.33 UTILITY AND PUBLIC SERVICE BUILDINGS

- A. Any such buildings shall be generally compatible with the surrounding neighborhood with respect to materials and color.
- B. Any such building shall comply with the lot area and yard setback requirements of the district in which it is located.
- C. There shall be no outdoor storage except in commercial or industrial districts. Where permitted, such outdoor storage shall consist of one of the following:
  - 1. Vegetative Screen. Evergreen trees planted no more than fifteen (15) feet apart and can be reasonably expected to achieve a complete visual barrier at a minimum height of six (6) feet in three (3) years. Deciduous trees may be incorporated for plant diversity provided the effectiveness of the screen is achieved.
  - 2. Obscuring Walls or Fences. Obscuring walls or fences shall be constructed of durable materials and placed inside and along the property lines and shall otherwise comply with **section 1.7**. The Planning Commission has the authority to require specific materials based on the site conditions and the nature of the use. Walls and fences shall include one (1) vine or shrub for every ten (10) lineal feet, planted on the exterior face of the structure.

## ARTICLE 6: SITE PLAN REVIEW

- 6.1 Intent and Purpose
- 6.2 General Requirements
- 6.3 Standards for Site Plan Approval
- 6.4 Site Plan Application Requirements
- 6.5 Submittal Requirements
- 6.6 Approval, Conditions, and Denial
- 6.7 Fees and Performance Guarantees
- 6.8 Record of Actions
- 6.9 Expiration, Revocation, and Reapplication
- 6.10 Amendments and Modification

### 6.1 INTENT AND PURPOSE

This Article governs the processes and standards for all uses and structures for which site plan approval is required under other provisions of this ordinance. Site plans for special land uses and planned unit developments shall receive a recommendation from the Planning Commission and a final decision by the Township Board. The Planning Commission shall make the final decision on site plans except as described in **Section 6.6.1**.

### 6.2 GENERAL REQUIREMENTS

#### 6.2.1 Site Plan Required

Site Plan Review is required in the following situations.

- A. The development of any new use and/or the construction of any new structures.
- B. Establishment, expansion, or enlargement of any regulated use unless expressly exempted by this Article.
- C. The development or construction of any accessory uses or structures, except for uses or structures that are accessory to a residential use in the AG-R, R-1, or R-2 districts.

#### 6.2.2 Site Plan Not Required

Notwithstanding the preceding **subsection 6.2.1**, site plan approval is not required for the following activities.

- A. Excavating, filling, or otherwise removing soil, provided that such activity is normally and customarily incidental to uses described in this Section for which site plan approval is not required.
- B. A change in the ownership of land or a structure, or a change in business tenancy, as long as the type of establishment is the same.
- C. Temporary buildings and structures.



### 6.3 STANDARDS FOR SITE PLAN APPROVAL

- A. Adequacy of Information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- B. Site Design Characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining land uses, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by these regulations. Where boundary concerns are present, the Zoning Administrator may require a staked survey.
- C. Appearance. Landscaping, earth berms, fencing, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.
- D. Compliance with district requirements. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Schedule of Dimensional Requirements, **Section 2.2**, unless otherwise provided in these regulations.
- E. Emergency vehicle access. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- F. Ingress and egress. Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.
- G. Pedestrian circulation. The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system.
- H. Vehicular and pedestrian circulation layout. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing streets or pedestrian ways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry. In order to ensure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.
- I. Drainage. Grading and drainage shall comply with the Berrien County Drain Commission and all other applicable state and federal requirements.
- J. Soil erosion and sedimentation. The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with Berrien County Erosion Control Standards.

- K. Exterior lighting. Exterior lighting shall be designed so that it is deflected away from adjoining properties, visual glare is minimized, and so that it does not impede vision of drivers along adjacent streets, as specified in this ordinance.
- L. Public services. Adequate services and utilities, including water, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.
- M. Screening. Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be screened by walls or landscaping of adequate height as specified in this ordinance.
- N. Danger from hazards. The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township. Sites that include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, and public sewer system.
- O. Health and safety concerns. Any use in any zoning district shall comply with applicable Federal, state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and toxic and hazardous materials.
- P. Sequence of development. 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 subsequent improvements in a later phase or on other sites.

**6.4 SUBMITTAL REQUIREMENTS**

An application for site plan review shall be submitted on a form provided by the Township with the required items presented in the table below. Required items shall be demonstrated on the site plan drawings, written narrative/submitted documentation, or both as indicated in the table.

SITE PLAN APPLICATION REQUIREMENTS			
Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
1.	The date, north arrow, and scale. Scale shall be as follows: < 3 acres: One (1) inch = fifty (50) feet > 3 acres: One (1) inch = one hundred (100) feet	✓	
2.	The boundary lines of the property, to include all dimensions, gross and net acreage, and legal description.	✓	
3.	The location and width of all abutting rights-of-way.	✓	

SITE PLAN APPLICATION REQUIREMENTS			
Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
4.	The existing zoning district in which the site is located and the zoning of adjacent parcels. In the case of a request for a zoning change, the classification of the proposed new district must be shown.	✓	
5.	The location of all existing and proposed structures and uses on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.	✓	
6.	Description of all existing and proposed structures referenced in item 5.		✓
7.	The location and identification of all existing structures within a two hundred (200) foot radius of the site.	✓	
8.	The location and description of the environmental characteristics of the site prior to development such as topography, soils, vegetative cover, mature specimen trees, drainage, streams, wetlands, shorelands, or any other unusual environmental features.	✓	✓
9.	Natural features that will be retained, removed, and/or modified including vegetation, hillsides, drainage, streams, wetlands, shorelands, and wildlife habitat.	✓	
10.	A landscaping plan with all existing and proposed landscaping, walls, and/or fences.	✓	
11.	A grading plan showing the topography of the existing and finished site, including ground floor elevations, shown by contours or spot elevations. Contours shall be shown at height intervals of two (2) feet or less.	✓	
12.	A stormwater management plan showing all existing above and below grade drainage facilities, and proposed plans incorporating low impact development water quality technologies and other best management practices.	✓	✓
13.	Location, type, and size of all above and below grade utilities.	✓	
14.	Location of any cross-access management easements, if required.	✓	
15.	Location of pedestrian and nonmotorized facilities.	✓	
16.	The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.		✓
17.	Plans to control soil erosion and sedimentation, including during construction.	✓	✓
18.	The method to be used to serve the development with municipal water.		✓
19.	The method to be used for sewage treatment.		✓
20.	The number of units proposed, by type, including a typical floor plan for each unit, dimensions, and area in square feet.	✓	
21.	Elevations for all building facades.	✓	
22.	The number of people to be housed or employed, number of visitors or patrons, anticipated vehicular and pedestrian traffic counts, and hours of operation.		✓
23.	Phasing of the project, including ultimate development proposals.	✓	
24.	General description of deed restrictions and/or cross-access management easements, if any or required.		✓
25.	The name and address of the property owner.	✓	✓
26.	Name(s) and address(es) of person(s) responsible for preparation of site plan drawings and supporting documentation.	✓	✓
27.	Sealed/stamped drawings from a licensed architect, engineer, or landscaped architect.	✓	

A. The Planning Commission may waive any of the above required items at their discretion.

- B. A complete survey of the parcel(s) involved in the site plan shall be provided in addition to the site plan requirements.
- C. The Planning Commission, Zoning Administrator, or other party authorized by the Township may request any additional information deemed necessary in the review of submitted site plan.
- D. The applicant must supply evidence that they have submitted the plan to all affected jurisdictions, including but not limited to Berrien County Road Department, New Buffalo Township Water Department, Michigan Department of Transportation (MDOT), and the Michigan Department of Energy, Great Lakes, and Environment (EGLE) for review. If an applicable review is not submitted, statement of a date certain for submission or the reason why the review is not applicable must be provided.
- E. Ten (10) sets of site plan drawings shall be submitted on sheets twenty four (24) inches by thirty six (36) inches and one electronic version in .pdf format.
- F. Prior to the issuance of building permit for structures on or within 100 feet of floodplain areas, the Zoning Administrator shall require the applicant for such permit to submit an approved permit by Michigan Department of Energy, Great Lakes, and Environment, along with evidence of insurability, topographic data, engineering studies, proposed site plan and/or other similar data needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water, and the potential for erosion or sedimentation of the bank adjacent to the floodplain. All technical data and reports shall be prepared by a registered professional civil engineer.

## 6.5 PROCEDURE

### 6.5.1 Pre-Application Conference

An applicant shall be required to attend a pre-application conference with the Township Zoning Administrator to discuss in general the substantive requirements for the application prior to submittal.

### 6.5.2 Conceptual Review

After a pre-application conference, an applicant may submit an application for conceptual review before the Planning Commission prior to formal submittal of a site plan review application. The purpose is to gather feedback on the proposed land use and potential requirements of the Planning Commission. Feedback provided by the Planning Commission under a conceptual review is non-binding, subject to change, and is not to be construed as a guarantee for approval. A conceptual review does not include a completeness or technical review by the Zoning Administrator.

### 6.5.3 Completeness Review

All required application materials shall be presented to the Zoning Administrator's office by the property owner or their designated agent at least seven (7) days prior to the Planning Commission meeting where the site plan will be considered. The Zoning Administrator shall review the application for completeness in order to determine if the application has been

properly submitted and the applicant has corrected all deficiencies. Completeness reviews are for the purpose of determining whether the preliminary information required for submission of the application is sufficient to allow further processing and shall not constitute a decision as to whether an application complies with the provisions of this Ordinance. Once deemed complete, the application will proceed to technical review as specified in **Section 6.5.4**.

#### **6.5.4 Technical Review**

An application determined to be complete will undergo a technical review by the Zoning Administrator or Township designee to determine compliance with applicable standards. This review may include distributing the plan to other local agencies or departments with jurisdiction for comment on any problems the plans might pose and shall result in a report submitted to the Planning Commission with the site plan review application. Once the technical review is complete, the application will be placed on the next regularly scheduled Planning Commission meeting.

### **6.6 APPROVAL, CONDITIONS, AND DENIAL**

The Planning Commission shall review the application and make a determination to approve the site plan, approve the site plan with conditions, or deny the site plan approval.

#### **6.6.1 Administrative Review**

The Zoning Administrator may review and decide on a qualifying site plan review application. The Zoning Administrator shall perform the duties of the Planning Commission prescribed in this Article when conducting an administrative review. No part of this subsection shall prohibit the Zoning Administrator or Applicant from requesting the site plan be submitted to the Planning Commission for review and approval. A site plan review application qualifying for administrative review shall meet the following criteria:

- A. The use is permitted by right in the established zoning district.
- B. The site plan proposal will result in less than one thousand (1,000) square feet of new building and/or impervious area.

#### **6.6.2 Planning Commission Review**

All other uses requiring a site plan shall be reviewed and decided upon by the Planning Commission.

#### **6.6.3 Approval**

The site plan shall be approved upon determination that it is in compliance with the standards of this Ordinance, Township planning documents, other applicable ordinances, and state and Federal statutes and regulations.

#### 6.6.4 Conditional Approval

The Planning Commission may approve a site plan, subject to any conditions to address necessary modifications, obtain variances, or approvals from other agencies. Conditions imposed shall be:

- A. Designed to protect natural resources; the health, safety, welfare, and social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
- B. Necessary to meet the intent and purpose of the zoning requirements; related to the standards established in the zoning ordinance for the land use or activity under consideration; and necessary to ensure compliance with those standards.
- C. Consistent with the general purposes and spirit of this Ordinance and the Master Plan of New Buffalo Township.

#### 6.6.5 Denial

If the Planning Commission determines that a proposed site plan does not meet the standards of this Ordinance, or otherwise will tend to be injurious to the public health, safety, welfare, or orderly development of the Township, it shall deny the application by a written endorsement which clearly sets forth the reason for such denial.

### 6.7 FEES AND PERFORMANCE GUARANTEES

Fees and performance guarantees associated with the review and approval of a site plan review application shall be consistent with the requirements in **Article 10**.

### 6.8 RECORD OF ACTIONS

The Township shall keep a record of decisions on all site plans on file in the Clerk's Office. The record shall include the following information as applicable:

#### 6.8.1 Minutes

All minutes from any meeting where the site plan was considered.

#### 6.8.2 Finding of Fact

The decision on a site plan review shall be incorporated in a finding of fact relative to the land use under consideration and shall specify the basis for the decision and any conditions imposed.

### 6.8.3 Final Site Plans

A full size print set (24" x 36") of the final site plans stamped by a licensed architect, landscape architect, or civil engineer shall be submitted to the building department, along with an electronic version in .pdf format.

- A. Approved site plans shall include any required revisions and the date of the revisions. The print set shall be marked "Approved" and signed and dated by the Applicant and Planning Commission Chair if approved by the Planning Commission, or the Zoning Administrator if administratively approved.
- B. Denied site plans shall be marked "Denied" and signed and dated by Planning Commission Chair if denied by the Planning Commission, or the Zoning Administrator if administratively denied.

### 6.8.4 Development Agreement

Upon approval of the Site Plan, the Planning Commission Chairperson shall sign three copies thereof. One signed copy shall be made a part of the Township's files; one copy of the Site Plan shall be forwarded to the Building Official for issuance of a building permit; and one copy shall be returned to the applicant. The development agreement and final site plan must be submitted by the applicant to the Berrien County Register of Deeds Office at his or her own expense. All special land use decisions shall be recorded consistent with the requirements of **Section 6.8.** with the addition that the development agreement and final site plans be recorded at the Berrien County Register of Deeds Office and evidence of the record by submitted to the Township Clerk within forty five (45) days.

## 6.9 EXPIRATION, REVOCATION, AND REAPPLICATION

### 6.9.1 Expiration

A site plan review approved under this Article shall be valid for a period of one (1) year from the date of approval. If the applicant fails to submit an application for a zoning permit to the Township for the approved site plan review in that time period, then the site plan review approval shall automatically expire. The applicant may request an extension of the permit by submitting a written request for consideration to the Planning Commission before the expiration date. The Planning Commission may grant an extension for a period of up to twenty-four (24) months.

### 6.9.2 Revocation

If a violation of any of the conditions or standards imposed on an approved site plan review is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises, the applicant of the site plan review, and the Planning Commission that such violation exists and that the site plan review approval will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the Planning Commission may revoke the permit. Furthermore, such a violation is hereby declared a violation of this Ordinance, subject to all the remedies and penalties provided for within this Ordinance.

## 6.10 AMENDMENTS AND MODIFICATIONS

A previously approved site plan may be modified subject to the following procedures:

### 6.10.1 Insignificant Deviations

The Zoning Administrator may authorize insignificant deviations in an approved site plan if the resulting use will still meet all applicable standards and requirements of this Ordinance, and any conditions imposed. A deviation is insignificant if the Zoning Administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property. Insignificant deviations shall be limited to the following:

- A. Reduction of the size of any building or sign.
- B. Movement of buildings or signs by no more than ten (10) feet, unless near a bluff line.
- C. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
- D. Changes in the building footprint, which do not alter the character of the use or increase the amount of required parking.
- E. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- F. Changes required or request by the Township Board, Berrien County, or other State or Federal regulatory agency in order to conform to other laws or regulations.

### 6.10.2 Minor Amendments

The Planning Commission may permit minor amendments to an approved site plan if the resulting use will still meet all applicable standards and requirements of this Ordinance, and any conditions imposed unless otherwise requested to be modified, and do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, demand for public services, or vulnerability to hazards. The Planning Commission may make a decision on minor amendments upon receipt of an application. Minor amendments are those modifications the Zoning Administrator determines will have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development but exceed the extent to which can be approved as an insignificant deviation.

### 6.10.3 Major Amendments

All other requests for amendments to an approved site plan shall be processed in the same manner as a new application. The Planning Commission may impose new conditions on the



approval of an amendment request if such conditions are warranted as described in this Article. The holder of the original site plan approval may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing site plan approval.

## ARTICLE 7: LAND DEVELOPMENT OPTIONS

- 7.1 Planned Unit Development
- 7.2 Manufactured Home Developments
- 7.3 Site Condominium Review

### 7.1 PLANNED UNIT DEVELOPMENT

#### 7.1.1 Intent And Purpose

- A. The Planned Unit Development (PUD) option is intended to allow, with Township approval, private or public development which is consistent with the goals and objectives of the Township Master Plan and Future Land Use Map.
- B. The development allowed under this Section shall be considered as an optional means of development only on terms agreeable to the Township.
- C. Use of the PUD option will allow flexibility in the control of land development by encouraging innovation through an overall, comprehensive development plan to provide variety in design and layout; to achieve economy and efficiency in the use of land, natural resources, and energy, and in the provision of public services and utilities; to encourage useful open spaces suited to the needs of the parcel in question; to provide proper housing including workforce housing; or to provide employment, service, and shopping opportunities suited to the needs of the residents of the Township.
- D. It is further intended the PUD may be used to allow nonresidential uses of residentially zoned areas; to allow residential uses of nonresidential zoned areas; to permit densities or lot sizes which are different from the applicable district; and to allow the mixing of land uses that would otherwise not be allowed, provided other community objectives are met and the resulting development would promote the public health, safety, and welfare, reduce sprawl, and be consistent with the New Buffalo Township Master Plan and Future Land Use Plan Map.
- E. It is further intended the development will be laid out so that land uses and building bulk will relate to one another and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- F. A density bonus yielding a maximum of 12 units per acre may be awarded when the proposed development includes affordable housing per the following provisions:
  - 1. Proposed PUD projects exceeding the residential density of the underlying zoning by up to 25% shall provide 10% of the total dwelling units on site as affordable as defined in this subsection. Proposed PUD projects exceeding the residential density of the underlying zoning by more than 25% shall provide 15% of the total dwelling units on site as affordable as defined in this subsection.

2. For the purpose of determining a density bonus, an affordable dwelling unit shall mean a dwelling unit where the rent or ownership payment comprises no greater than one third of 120% of the Berrien County median income figured annually.
3. When the affordable dwelling unit requirement results in a fractional unit, the number of required units shall be rounded up to the nearest whole number.
4. The required affordable dwelling units shall be interspersed throughout the development.

#### **7.1.2 Uses Permitted**

- A. A land use plan shall be proposed for the area to be included within the PUD. The land use plan shall be defined primarily by the Township Zoning Ordinance Districts that are most applicable to the various areas of the PUD.
- B. Uses permitted and uses permitted subject to Special Land Use Permit approval in this Ordinance (see **Article 3**) may be allowed within the districts identified on the PUD plan, except that some uses may be specifically prohibited from districts designated on the PUD plan. Alternatively, the Township may allow uses not permitted in the district if specifically noted on the PUD plan. Conditions applicable to uses subject to Special Land Use Permit approval shall be used as guidelines for design and layout but may be varied by the Planning Commission provided such conditions are indicated on the PUD plan.

#### **7.1.3 Qualifying Standards for Planned Unit Development**

Planned Unit Development proposals shall meet the following qualifying standards to be considered under the PUD land development option:

- A. The PUD site, combined across all parcels, shall not be less than ten (10) acres in area.
- B. The PUD shall not be used where the same land use objectives can be carried out by the application of conventional zoning provisions or standards. Problems or constraints presented by applicable zoning provisions shall be identified in the PUD application.
- C. The PUD option may be effectuated only when the proposed land use will not materially add service and facility loads beyond those considered in the New Buffalo Township Master Plan, and other public agency plans, unless the proponent can prove to the sole satisfaction of the Township that such added loads will be accommodated or mitigated by the proponent as part of the PUD.

- D. The PUD shall not be allowed solely as a means of increasing density or as a substitute for a variance request; such objectives should be pursued through the normal zoning process by seeking a zoning change or variance.
- E. The PUD must meet, as a minimum, four (4) of the following nine (9) objectives of the Township:
  - 1. To permanently preserve open space or natural features because of their exceptional characteristics, or because they can provide a permanent transition or buffer between land uses.
  - 2. To permanently establish land use patterns which are compatible with, or which will protect desirable existing or planned uses.
  - 3. To accept dedication or set aside open space areas for public use in perpetuity.
  - 4. To provide alternative uses for parcels that can provide transition between incompatible uses.
  - 5. To promote the goals and objectives of the New Buffalo Township Master Plan.
  - 6. To foster the aesthetic appearance of the Township through quality building design and site development; to provide trees and landscaping beyond minimum requirements; to provide pedestrian amenities beyond the minimum requirement; to preserve unique and/or historic sites or structures; or to provide open space or other desirable features of a site beyond minimum requirements.
  - 7. To bring about redevelopment of sites where an orderly change of use or requirements is determined to be desirable.
  - 8. To provide a diverse mix of housing options, price points, and opportunities to rent or purchase.
  - 9. To preserve agricultural land in the Township while concentrating development in areas with public services, as specified in **Section 6.3**.

#### 7.1.4 Procedure

The PUD application submission and review procedures follow six (6) primary steps:

- 1. Pre-application submission and review
- 2. Submission of PUD plan and application materials

3. Planning Commission review and recommendation to approve or deny the PUD
4. Berrien County review and recommendation to approve or deny the PUD
5. Township Board review and final approval or denial of the PUD
6. Submission of final site plans for Planning Commission approval prior to building permit issuance

#### 7.1.5 Pre-Application Submittal Requirements And Review

- A. Any person owning or controlling land in the Township may make application for consideration of a PUD. Such application shall be made by presenting a request for a preliminary determination to whether a development proposal qualifies for the PUD option.
- B. The request shall be submitted to the Township and the submission shall include the information required below.
  1. Proof the Qualifying Standards in this Section are or will be met.
  2. A conceptual land use plan containing enough detail to explain the role of open space; location of land use areas; streets providing access to the site and pedestrian and vehicular circulation within the site; dwelling unit density and types; and buildings or floor areas contemplated, as applicable.
  3. A plan to protect natural features or preservation of open space or greenbelts.
  4. A storm water management plan incorporating low impact development (LID) water quality technologies, such as, but not limited to, rain gardens, rooftop gardens, vegetated swales, cisterns, permeable pavers, porous pavement, and filtered storm water structures.
  5. The Planning Commission shall review the applicant's request for qualification. If approved, the applicant may then continue to prepare a PUD Plan on which a final determination will be made.
- C. Based on the documentation presented, the Planning Commission shall make a preliminary determination about whether a development proposal is consistent with the Intent and Purpose in **Subsection 7.1.1** and qualifies for the PUD option under the Qualifying Standards in **Subsection 7.1.4**. If approved, the applicant may then continue to prepare a PUD plan and application on which a final determination will be made. An approved request for qualification is not a guarantee for final PUD approval.

### 7.1.6 Application Submittal Requirements and Review

The application, reports, and drawings shall be filed in paper and digital format. Printed drawings shall be on 24" x 36" sheets. All drawings shall be provided to the Township in AutoCad™, MicroStation, or similar site civil / architectural drawing format requested by the Planning Commission. Other graphics, exhibits, text, and tabular information shall be provided in Adobe Acrobat™ "pdf" format. All drawings shall be created at a scale not smaller than one (1) inch equals one hundred (100) feet, unless otherwise approved by the Township.

- A. Submittal Requirements. PUD applications shall meet all the requirements of a site plan review in **Section 6.4**, and shall also include the following information:
1. A circulation plan including all pedestrian, vehicular, and nonmotorized circulation patterns
  2. Transition treatment, including minimum building setbacks to land adjoining the PUD and between different land use areas within the PUD.
  3. The general location of residential unit types and densities and lot sizes by area.
  4. The boundaries of open space areas that are to be preserved or reserved and an indication of the proposed ownership.
  5. A schematic landscape treatment plan for open space areas, streets and border/transition areas to adjoining properties.
  6. Elevations of the proposed buildings using traditional building materials shall be used. Materials such as exterior insulation finish system (EIFS), fluted concrete masonry units, concrete panels, panel brick, and scored concrete masonry unit block are not considered traditional building materials.
  7. A written statement explaining in detail the full intent of the applicant, showing dwelling unit types or uses contemplated and resultant population, floor area, parking and supporting documentation, including the intended schedule of development.
  8. In addition, the following information may be required:
    - a. A market study, traffic impact study, and /or environmental impact assessment, if requested by the Planning Commission or the Township Board.
    - b. A pattern book or design guidelines manual if requested by the Planning Commission or Township Board.

- B. Completeness Review: An application shall have a completeness review performed consistent with **Section 6.5.3**. The Planning Commission may waive any of the above required items and those set forth in **section 6.4**, at its discretion.
- C. Technical Review: An application shall have technical review performed consistent with **Section 6.5.4**.

#### 7.1.7 Planning Commission Review And Recommendation

The review of a PUD application by the Planning Commission shall follow the procedures below:

- A. Review: Upon notification from the Township Zoning Administrator of a complete PUD plan application and technical review, the Planning Commission shall review the proposed PUD plan and make a determination about adherence to the following objectives and requirements:
  - 1. The proposed PUD adheres to the conditions for qualification of the PUD option and promotes the land use goals and objectives of the Township.
  - 2. All applicable provisions of this Article shall be met, including those of **Section 6.3** Standards for Site Plan Approval. If any provision of this Article shall be in conflict with the provisions of any other Section of this Article, the provisions of this Section shall apply to the lands embraced within a PUD area.
  - 3. There will be, at the time of development, an acceptable means of disposing of sanitary sewage and of supplying the development with water, and the road network, storm water drainage system, and other public infrastructure and services are satisfactory.
- B. State Permits: Records of final permits issued by EGLE or other State agencies shall be submitted to the Township Clerk.
- C. Public Hearing: The Planning Commission shall hold a public hearing on the PUD plan and shall give notice as provided in **Article 11**.
- D. Finding of Facts: After the review and public hearing, the Planning Commission shall adopt a finding of fact relative to the PUD under consideration as the basis of their recommendation to approve or deny the application, along with any applicable conditions.
- E. Recommended Rezoning: After the review and public hearing, the Planning Commission shall recommend the rezoning or all lots specified in the PUD application to the PUD district.

- F. Recommendation: The Planning Commission shall submit its recommendation to the Berrien County Planning Commission and to the Township Board, along with the technical review and finding of facts for final determination.

**7.1.8 Berrien County Planning Commission Review And Recommendation**

- A. Determination: Upon receipt of the technical review, finding of facts, and recommendation of the Planning Commission, the Berrien County Planning Commission shall have an opportunity to review the application and make a determination to recommend approval or denial of the application, as required by the Michigan Zoning Enabling Act.

**7.1.9 Township Board Review And Approval**

- A. Determination: Upon receipt of the technical review, finding of facts, and recommendation of the Planning Commission, the Township Board shall review the application and make a determination to approve or deny the application, and any applicable conditions.
- B. PUD Development Agreement: If the Township Board approves the application, it shall direct the Township attorney to prepare a PUD Development Agreement setting forth the conditions on which such approval is based. The PUD Development Agreement shall:
  1. Be signed by the Supervisor and the applicant.
  2. Become effective on execution after its approval.
  3. Be recorded at the Berrien County Register of Deeds' office by the applicant, at his or her sole expense, who shall provide a copy of the record to the Township within forty-five (45) days.
  4. Limit the development and uses that may take place in such area to those expressly permitted under the PUD Development Agreement unless otherwise amended following the procedures in this Section.

**7.1.10 Submission Of Final Site Plans**

Final site plans for the project area shall be submitted to the Planning Commission within 12 months of the Township Board approval. The applicant may request an extension for a period of up to one (1) year by submitting a written request for consideration to the Planning Commission before the expiration date. Before any zoning or building permits are issued for the PUD, the Planning Commission will review and approve the following:

- A. Review and approval of site plans shall comply with **Article 6**, as well as this Section, except as otherwise modified in the approved plan and/or the PUD Development Agreement.



- B. Before approving of any final site plans, the Planning Commission shall decide that:
  - 1. All portions of the project area shown on the approved plan for the PUD for use by the public or the residents of lands within the PUD have been committed to such uses under the PUD Development Agreement;
  - 2. The final site plans are in conformity with the approved development agreement and plan for the PUD;
  - 3. Provisions have been made under the PUD Development Agreement to provide for the financing of any improvements shown on the project area plan for open spaces and common areas which are to be provided by the applicant and that maintenance of such improvements is assured under the PUD Development Agreement.
  - 4. All conditions and proposed revisions arising during the review and approval process, whether directed by the Zoning Administrator, the Planning Commission, the Township Board, or their designees, have been satisfactorily addressed and incorporated.
  
- C. A dimensionally stable copy of the as-built drawings shall be submitted to the Township Clerk and a second dimensionally stable copy shall be recorded with the Berrien County Register of Deeds at the applicant's sole expense.

**7.1.11 Termination And Expiration**

An approved PUD Development Agreement may be terminated or expire in the following ways:

- A. An applicant or the applicant's successors or assigns may choose to terminate a PUD Development Agreement, before any development within the area involved, by filing with the Township and recording at the Berrien County Register of Deeds an affidavit so stating. The approval of the plan under the PUD Development Agreement shall terminate on such recording.
  
- B. No approved plan under a PUD Development Agreement shall be terminated after development begins except with the approval of the Township Board and of all parties in interest in the land, unless otherwise set forth in this section.
  
- C. Within one (1) year following execution of the PUD Development Agreement by the Township Board, final approved site plans for an area embraced within the PUD must be filed with the Township. If such plans have not been filed within the one (1) year period, the right to develop the approved plan under the PUD Development Agreement shall be automatically terminated unless an extension is requested in writing by the applicant and authorized by the Township Board. The Township Board may authorize an extension of up to one (1) year.

- D. If development of approved final site plans is not substantially completed in three (3) years after approval, further final submittals under the PUD shall stop until the part in question is completed or cause can be shown for not completing same.
- E. If a violation of any of the conditions or standards imposed on an approved PUD is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises, the applicant of the PUD, and the Planning Commission that such violation exists and that the approval will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the Planning Commission may revoke the approval. Furthermore, such a violation is hereby declared a violation of this Ordinance, subject to all the remedies and penalties provided for within this Ordinance.

#### 7.1.12 Fees And Performance Guarantees

Fees and performance guarantees associated with the review and approval of a Planned Unit Development shall be consistent with the requirements in **Article 10**.

#### 7.1.13 Interpretation Of Approval

Approval of a PUD under this Section shall be considered an optional method of development and improvement of property, subject to the mutual agreement of the Township and the applicant.

#### 7.1.14 Amendments To Planned Unit Development

Proposed amendments or changes to an approved PUD plan and/or PUD contract shall be presented to the Planning Commission and shall decide whether the proposed modification is of minor or major nature based on **Section 6.10**.

- A. Minor Amendment: If determined to be a minor amendment, the Planning Commission may review and approve or deny the request. The PUD Development Agreement shall be modified to reflect any approved minor amendment.
- B. Major Amendment: If determined to be a major amendment, the Planning Commission shall hold a public hearing consistent with the requirements in this Article as part of its review and make a recommendation to the Township Board to approve or deny the request. The Township Board shall have the final determination to approve or deny a major amendment request. The PUD Development Agreement shall be modified to reflect any approved major amendment.

### 7.2 MANUFACTURED HOME DEVELOPMENTS

#### 7.2.1 General Standards

Land or buildings in the MR (Manufactured Residential) District may be used for the development of Licensed Manufactured Home Parks when approved in accordance with the requirements of **Article 6** and subject to the following provisions.

- A. All manufactured home parks shall comply with the applicable requirements of Michigan Public Act 96 of 1987, as amended and the Michigan Mobile Home Commission.
- B. The parking of more than one manufactured home on a single parcel of land or on two or more adjoining parcels of land under common ownership shall be illegal in New Buffalo Township, irrespective of the requirements of any other Ordinance of New Buffalo Township, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park.
- C. All applications to establish a Manufactured Home Park District must be approved by the Township Board, upon the recommendation of the Planning Commission.

### 7.3 SITE CONDOMINIUM REVIEW

- A. The site plan and master deed for any condominium consisting of detached single-family or two-family dwellings (hereinafter referred to as "site condominiums") shall be subject to review and approval in accordance with **Article 6**. This Section shall also be applicable to any amendment which increases the number of condominium units, alters the horizontal dimensions of a condominium unit or makes other non-minor changes.
- B. In addition to other requirements of this Section, the site plan for a site condominium shall include:
  - 1. A description of the objective of the proposed development.
  - 2. An identification of the number of units.
  - 3. A utility plan for providing water, sewer, and public and private utilities.
  - 4. The location and type of drainage facilities.
  - 5. The proposed width, alignment, and grade of access roads indicating whether they shall be public or private.
  - 6. A certification of compliance with the Condominium Act, Michigan Public Act 59 of 1978, as amended.
- C. Each site condominium unit shall comply with the applicable provisions of the Ordinance regarding minimum lot area, maximum frontage, and setbacks for the District in which it is located.
- D. The site condominium shall contain all easements necessary to provide and maintain public utility services.
- E. The Township Board may require a performance guarantee pursuant to the State Subdivision Control Act (Michigan Public Act 288 of 1967, as amended).

## ARTICLE 8: SPECIAL LAND USES

- 8.1 Intent and Purpose
- 8.2 Standards for Special Land Use Approval
- 8.3 Submittal Requirements
- 8.4 Procedure
- 8.5 Approval, Conditions, and Denial
- 8.6 Fees and Performance Guarantees
- 8.7 Record of Actions
- 8.8 Expiration and Revocation
- 8.9 Amendments and Modification

### 8.1 INTENT AND PURPOSE

This Article provides the review procedures and standards instituted to provide an opportunity to use a lot or parcel for an activity which, under certain circumstances, might be detrimental to other permitted land uses, or which contain unique features. The procedures and standards apply to those special land uses which are specifically designated as such in this Ordinance.

### 8.2 STANDARDS FOR SPECIAL LAND USE APPROVAL

Each application shall be reviewed on an individual basis for conformity and compliance with the standards of this Ordinance, including those for site plan review and a finding that the special land use will meet all of the specific standards below:

- A. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
- B. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, and including, but not limited to streets, police and fire protection, drainage structures and refuse disposal. Adequate water and sanitation facilities must be available.
- C. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
- D. The use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
- E. The site plan proposed for such use demonstrates compliance with the applicable specific design standards for the special land use as contained in **Article 5**.
- F. The use is consistent with the New Buffalo Township Master Plan.

### 8.3 SUBMITTAL REQUIREMENTS

An application for special land use permit approval shall include a complete site plan review satisfying all the standards in **Section 6.4**.

### 8.4 PROCEDURE

The procedures for application submittal for a special land use permit shall follow those outlined in **Section 6.5**.

### 8.5 APPROVAL, CONDITIONS, AND DENIAL

#### 8.5.1 Planning Commission Review

The Planning Commission shall:

- A. Review the application to determine whether it satisfies the standards for special land uses, and all other applicable standards of this Ordinance.
- B. Hold a public hearing to consider the proposed special land use consistent with the procedures for a public hearing in **Section 10.8** pursuant to the Michigan Zoning Enabling Act, PA 110 of 2006, et seq.
- C. Conduct a finding of fact and approve, approve with conditions, or deny the special land use permit.

#### 8.5.2 Township Board Review

Following receipt of the Planning Commission Recommendation, the Township Board shall review the application and site plan requesting a Special Land Use Permit. The Township Board shall render its decision to approve, approve with conditions, or deny the Special Land Use permit based on the standards specified in **Section 8.2**.

#### 8.5.3 Approval

The special land use permit shall be approved upon determination that it is in compliance with the standards of this Ordinance, other Township planning documents, other applicable ordinances, and state and Federal statutes. Upon approval, a special land use shall be deemed a conforming use permitted in the district in which it is proposed, subject to any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon which the use is located.

#### 8.5.4 Conditional Approval

The Planning Commission may approve a special land use permit, subject to any conditions to address necessary modifications, obtain variances, or secure approvals from other agencies. Conditions imposed shall meet the objectives of **Section 6.6.4**.

### 8.5.5 Denial

If the Planning Commission determines that a proposed special land use does not meet the standards of this Ordinance, or otherwise will tend to be injurious to the public health, safety, welfare, or orderly development of the Township, it shall deny the application.

### 8.6 FEES AND PERFORMANCE GUARANTEES

Fees and performance guarantees associated with the review and approval of a special land use application shall be consistent with the requirements in **Section 10.6**.

### 8.7 RECORD OF ACTIONS

All special land use decisions shall be recorded consistent with the requirements of **Section 6.8**, with the addition that evidence of the record be submitted to the Township Clerk within forty-five (45) days.

### 8.8 EXPIRATION AND REVOCATION

The standards and procedures for expiration and revocation of an approved special land use permit shall be the same as those for site plan review in **Section 6.9**.

### 8.9 AMENDMENTS AND MODIFICATIONS

The standards and procedures for amendments or modifications of an approved special land use permit shall be the same as those for site plan review in **Section 6.10**, with the exception that a major amendment to an approved special land use permit will require a new public hearing following the standards and process in **Section 10.8**.

## ARTICLE 9: ZONING BOARD OF APPEALS

- 9.1 Authority
- 9.2 Membership
- 9.3 Vacancies
- 9.4 Alternates
- 9.5 Organization
- 9.6 Submittal Requirements
- 9.7 Appeals of Administrative Decisions
- 9.8 Interpretation of Zoning Ordinance Provisions
- 9.9 Interpretation of Zoning District Boundaries
- 9.10 Variances

### 9.1 AUTHORITY

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its power as provided for in this Ordinance and the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, in such a way that the objectives of this Ordinance shall be served; public health, safety, and welfare protected; and substantial justice done.

### 9.2 MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) members and up to two (2) alternates appointed by the Township Board for three (3) year terms as follows:

- A. One (1) member of the Zoning Board of Appeals shall be a member of the Planning Commission, and their term of office on the Zoning Board of Appeals shall be concurrent with their term of office as a Planning Commissioner.
- B. The second member of the Zoning Board of Appeals may be a member of the Township Board appointed annually for a term of one year, but not to exceed the term of the Township Board.
- C. An elected official of the Township shall not serve as chairperson of the Zoning Board of Appeals.
- D. Members of the Zoning Board of Appeals shall be selected from electors of the Township and shall reside within the Township.
- E. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.
- F. In the event a Zoning Board of Appeals member is elected to the Township Board and such election increases the number of Township Board members serving on the Board to more than one (1), then such member's seat on the Board shall be deemed vacant. Such vacancy

shall be filled for the remainder of the un-expired term by appointment in the same manner as for regular appointments for full terms.

**9.3 VACANCIES**

- A. Members of the Zoning Board of Appeals may be removed from office for inefficiency, neglect of duty, or malfeasance in office, including failure of a member with a conflict of interest to abstain from deliberations or voting on the matter, after written charges have been filed with the Township Clerk and a public hearing has been held by Township Board.
- B. Vacancies shall be filled for the remainder of the unexpired term by appointment by the Township Board.
- C. Members shall be appointed not more than one (1) month after the term of the preceding member has expired.

**9.4 ALTERNATES**

- A. Up to two (2) alternate members may be appointed by the Township Board for three (3) year terms.
- B. Either alternate member may be called to sit as regular members of the Zoning Board of Appeals in the absence of a regular member.
- C. Either alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has been recused for reasons of conflict of interest.
- D. In matters where an alternate has been called to serve in place of a regular member of the Zoning Board of Appeals, the alternate member shall serve in the case until a final decision is made.
- E. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

**9.5 ORGANIZATION**

The Zoning Board of Appeals shall adopt rules of procedure as may be deemed necessary to properly conduct business and organize meetings, in addition to the following:

- A. The Zoning Board of Appeals shall elect a Chair, Vice-Chair, and Secretary from its membership. A member of the Township Board shall not serve as chair of the Zoning Board of Appeals.
- B. All meetings of the Zoning Board of Appeals shall be held at the call of the Chair at such times as the Zoning Board of Appeals may determine.



- C. The Zoning Board of Appeals shall render decisions upon all matters within a reasonable time.
- D. The Zoning Board of Appeals may distribute the application materials to the Zoning Administrator, Building Official, or other Township staff or consultants to review the application and provide a report to the Zoning Board of Appeals that addresses applicable Ordinance issues, whether the issue in question can be resolved by other means defined in this Ordinance, and how the request may affect the Master Plan and any other Township planning documents.
- E. The Zoning Board of Appeals may request that any or all of the following information be provided by the Township Clerk, where available and applicable to the issue in question:
  - 1. The history of development on the site in question.
  - 2. A summary of past Township approvals, orders, and decisions related to the site or issue in question.
  - 3. Whether all outstanding infractions related to this Ordinance or other Township ordinances have been resolved, other than the issue to be addressed by the Zoning Board of Appeals.
- F. The Zoning Board of Appeals shall not conduct business unless a majority of its members are present.
- G. A concurring vote of a majority of the total Zoning Board of Appeals membership shall be necessary to render a decision except as otherwise required under the Michigan Zoning Enabling Act, PA 110 of 2006.
- H. The Secretary shall keep minutes of the proceedings, record the vote of each member upon each question, indicate absences and abstentions, and keep records of hearings and other official action. Such minutes shall also be filed with the Township Clerk.

## 9.6 SUBMITTAL REQUIREMENTS

Applications to the Zoning Board of Appeals shall be filed with the Township. Applications shall be accompanied by the following information, where applicable:

- A. Applicant's name, address, telephone number, and email address.
- B. The address, location, and tax identification number for each parcel involved in the request.
- C. Zoning classification of the subject parcel(s) and all abutting parcels.
- D. A plot plan, drawn to scale, with a north-arrow, existing lot lines, street rights-of-way, easements, building and structures, setback dimensions, parking areas, driveways, sidewalks, and other site improvements.

- E. A letter from the applicant summarizing the request and stating the reasons for the request.
- F. Any additional information deemed necessary by the Zoning Administrator to make a determination on the issue in question.

### **9.7 APPEALS OF ADMINISTRATIVE DECISIONS**

The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the person or body charged with administration or enforcement of the Zoning Ordinance. Such appeals may be taken to the Zoning Board of Appeals by the person, firm, or corporation aggrieved, or by an officer, department, board, or bureau of the Township affected by the order, requirement, decision, or determination, provided that a notice of appeal application is filed with the Township within a reasonable time of the order, requirement, decision or determination, not to exceed twenty-one (21) days. An appeal shall stay all administrative or enforcement proceedings associated with the appeal, unless the Building Official certifies to the Board that, by reason of facts stated in the certificate, a stay in the opinion of the Building Official would cause imminent peril to life or property. The Zoning Board of Appeals shall reverse an administrative decision only after finding that the order, requirement, decision, or determination was arbitrary or capricious, based upon an erroneous finding of a material fact, constituted an abuse of discretion, or based upon an erroneous interpretation of the Zoning Ordinance.

### **9.8 INTERPRETATION OF ZONING ORDINANCE PROVISIONS**

The Zoning Board of Appeals shall have the power to hear and decide requests for interpretations of Zoning Ordinance provisions in such a way as to preserve and promote the character of the zoning district in question, and carry out the intent and purpose of this Ordinance, the Master Plan, or any sub-area plans. This shall include use determinations upon appeal of an opinion issued by the Zoning Administrator.

### **9.9 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where the actual lines of streets, alleys, or property boundaries vary from the portions indicated on the Zoning Map, or some ambiguity exists as to zoning district boundaries, the Zoning Board of Appeals shall have the power to interpret the Zoning Map in such a way as to carry out the intents and purposes of the New Buffalo Township Zoning Ordinance and Master Plan. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules specified in **Article 2** shall apply.

### **9.10 VARIANCES**

The Zoning Board of Appeals shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance 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 Ordinance. The Zoning Board of Appeals may grant a requested "non-use" variance only upon a finding that practical difficulties exist.

### 9.10.1 Standards for Non-Use Variance

A finding of practical difficulties is when the applicant has demonstrated all of the following:

- A. There are special conditions or circumstances peculiar to the property in question, which cause practical difficulty to the applicant and are not generally applicable to other properties in the same zoning district.
- B. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by the owners of other properties in the same district.
- C. The special conditions or circumstances did not result from the actions of the applicant or applicant's predecessors in interest.
- D. Granting the variance will not confer on applicant any special privilege denied by this Ordinance to other lands, structures or buildings in the same district.
- E. The variance shall be no greater than reasonably necessary.
- F. Nonconforming use of neighboring lands, structures or buildings shall not be grounds for a variance, except that front yard setback requirements may be reduced to conform generally with other buildings on the same side of the block.
- G. Increased financial return shall not by itself be grounds for a variance.
- H. The variance will not be significantly detrimental to adjacent property, the surrounding neighborhood, public health, safety and welfare or the intent and purpose of this Ordinance.
- I. The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties.

**ARTICLE 10: ADMINISTRATION, ENFORCEMENT AND VIOLATIONS**

- 10.1 Zoning Administrator
- 10.2 Building Official
- 10.3 Planning Commission
- 10.4 Township Board
- 10.5 Fees
- 10.6 Performance Guarantees
- 10.7 Public Hearings
- 10.8 Zoning Permits
- 10.9 Violations and Penalties

**10.1 ZONING ADMINISTRATOR**

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator, or such other official or officials as may be designated by the Township Board. The Zoning Administrator shall have the power to:

- A. Receive applications for zoning permits and issue or deny same.
- B. Perform pre-application conferences, completeness reviews, and technical reviews for all applications that include a site plan review.
- C. Ensure zoning compliance.
- D. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance.
- E. Issue and serve notices to appear and citations on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense.
- F. Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.

**10.2 BUILDING OFFICIAL**

A Building Official shall be appointed by and on such terms as shall be determined by the Township Board. The duties of the Building Official may be delegated by the Township Board to another employee of the Township or a consultant approved by the Township Board. The duties of the Building Official shall be to:

- A. Inspect buildings or structures in order to determine compliance with the state Building Code;

### 10.3 PLANNING COMMISSION

The Planning Commission serves a dual role as the planning advisory board and the zoning advisory board of the Township. A member must disqualify himself or herself if the member has a conflict of interest.

#### 10.3.1 Planning Duties

The Planning Commission shall have the following prescribed local planning activities and responsibilities in addition to those set forth in the Planning Enabling Act and Zoning Enabling Act:

- A. Preparation and adoption of the Master Plan;
- B. Monitor and oversee the effectiveness and status of the Master Plan and recommend such changes in the Master Plan as may from time to time be required;
- C. Review proposed land development regulations, or amendments thereto, and make recommendations to the Township Board as to consistency of the proposal with the adopted Master Plan; and
- D. Perform any other functions, duties, and responsibilities which may be assigned to it by the Township Board or by a general or special Ordinance.

#### 10.3.2 Zoning and Development Review Duties

The Planning Commission shall have the following prescribed duties and responsibilities:

- A. Initiate studies and prepare recommendations for changes or amendments relating to the boundaries for the various zoning districts or the regulations applicable thereto, to the Township Board;
- B. Conduct Site Plan reviews;
- C. Make recommendations to the Township Board regarding the following types of development:
  - 1. Applications for Special Land Uses;
  - 2. Applications for rezonings, including Planned Unit Developments;
  - 3. Applications for Subdivision Plats; and
  - 4. All other development reviews the Township Board assigns to the Planning Commission.

### 10.4 TOWNSHIP BOARD

The duties of the Township Board, in connection with this Ordinance, shall include, along with any other duties set forth by law:

- A. Consideration and the adoption or rejection of proposed amendments, approval of

Planned Unit Developments and Plats, and the repeal of this Ordinance or provisions contained herein, as provided by law.

- B. Approving the appointment of members of the Planning Commission, Zoning Board of Appeals, and the Zoning Administrator and prescribing the duties of such Commission, Board, and Administrator, as provided by law.
- C. The establishment of fees and charges to administer and enforce the Zoning Ordinance.
- D. Final approval of a master plan, once submitted by the Planning Commission.

#### 10.5 FEES

The fees for applications, permits, and other requests shall be established by the Township Board by resolution. Fees must be paid before any review of an application is performed or a permit is issued.

#### 10.6 PERFORMANCE GUARANTEES

- A. As a condition of approval of a private street, site plan review, special land use, or planned unit development, the Planning Commission or Township Board, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- B. Performance guarantees shall be processed in the following manner:
  - 1. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be 100 percent of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
  - 2. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
  - 3. Upon receipt of the required performance guarantee, the Building Official shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.

4. The Zoning Administrator, upon the written request of the obliger, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
5. When all of the required improvements have been completed, the obliger shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obliger shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
6. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

## 10.7 PUBLIC HEARINGS

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended and the following:

### 10.7.1 Public Notice

- A. Notice of the public hearing shall be:
  1. Posted by the Township Clerk at Township Hall not less than fifteen (15) days before the date of the public hearing;
  2. Published in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the public hearing; and
  3. Sent by mail or personal delivery not less than fifteen (15) days before the date of the public hearing to:
    - a. The applicant, owner(s) of property for which approval is being considered, all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.
    - b. All occupants of structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making

notification. Notification need not be given to more than one (1) occupant of a structure, except that one (1) occupant of each unit or spatial area shall receive notice if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner, who shall post the notice at the primary entrance to the structure.

B. The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request. 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. If there are no street addresses, other means of identification may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

## 10.8 ZONING PERMITS

### 10.8.1 General

No person shall erect, alter, move, or demolish a structure or to establish a new use or change in use for any parcel, without a zoning permit. The Zoning Administrator shall issue a zoning permit if the proposed structure or use complies with the provisions of this Ordinance. The applicant shall furnish permits or approvals from the Berrien County Health Department, Berrien County Road Department, EGLE, the Michigan Department of Transportation, and the Michigan Department of Natural Resources, if required, before the Zoning Administrator may issue a permit. A copy of each zoning permit will be retained by the Zoning Administrator as a part of the permanent records of the Township. The Zoning Administrator shall promptly inform the applicant of the denial of a zoning permit if the proposed structure or use does not comply with the provisions of this Ordinance. Issuance of a zoning permit, or approval of a site plan for a permitted use or special land use permit, does not waive the requirements to comply with all applicable local, state, and Federal codes and statutes, including but not limited to the State Construction Code, Electrical Code, Property Maintenance Code, Mechanical Code, and Fire Prevention Code.



**10.8.2 Application**

- A. Zoning Compliance Review. No existing use of land shall be changed to a different use classification unless a Zoning Permit is first obtained for the new or different use.
- B. Building Permits. No building, structure, or commercial sign shall be erected, altered, moved, or substantially repaired, demolished or excavation begun unless a building permit shall have been first issued for such work as specified under the Township’s Building Code, as amended.
- C. Certificate of Occupancy.
  - 1. No existing use of land shall be changed to a different class of use unless a Certificate of Occupancy is first obtained for the new or different use.
  - 2. No building or structure which is hereafter erected or altered shall be occupied or used unless and until a Certificate of Occupancy shall have been issued for such building or structure by the Building Official.

**10.8.3 Voiding Permit**

Any permit granted under this Section shall become null and void after one (1) year from the date of granting such permit unless the development proposed shall have passed its first construction code inspection. The applicant shall have the option of extending the permit by a maximum of one (1) year upon written notice to the Zoning Administrator. Said notice shall be filed no later than five (5) working days following the expiration of the permit. If a zoning permit expires, the applicant will have to reapply as a new application.

**10.8.4 Inspection**

The developer of the property is solely responsible for meeting the conditions and terms of the zoning permit and this Ordinance, subject to inspection for compliance by the Zoning Administrator.

**10.9 VIOLATIONS AND PENALTIES**

**10.9.1 Penalties**

Any person who shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions of the Zoning Board of Appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not to exceed two hundred dollars (\$200.00), and each day such violation continues shall be deemed a separate offense equal to the civil infraction penalty and fine established by the Township Board.

**10.9.2 Nuisance Per Se**

Any land, dwellings, buildings, or structures, including tents and trailer coaches, which are used, erected, altered, razed, or converted in violation of this Ordinance or in violation of any regulations, conditions, permits, or other rights pursuant to this Ordinance are hereby declared to be a nuisance per se and subject to penalty per this Section.

**10.9.3 Municipal Civil Infraction**

Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined above, or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance, shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.

**10.9.4 Zoning Administrator**

The Zoning Administrator or assignee is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

**10.9.5 Nuisance Abatement**

In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance. Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver or nor prevent any further prosecution of violations of this Ordinance.

**10.9.6 Stop Work Order**

If construction is being undertaken contrary to a building permit, this Ordinance or other applicable laws or ordinances, the Zoning Administrator or Building Inspector shall give written notice to the holder of the building permit, or if a permit has not been issued then to the person doing the construction, notifying them of the violation and to appear and show cause why the construction should not be stopped. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. If the holder of the permit or the person doing construction fails to appear and show good cause within one full working day after notice is delivered, the Zoning Administrator or Building Inspector shall cause a written order to stop construction to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction in violation of a stop construction order, except with the permission of the Zoning Administrator or Building Inspector to abate the dangerous condition or remove the violation, or by court order. If an order to stop construction is not obeyed, the Zoning Administrator or Building Inspector may apply to the Berrien County Circuit Court for an order enjoining the violation of the stop construction

order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

**ARTICLE 11: AMENDMENTS AND SEVERABILITY**

**11.1 Amendments**

**11.2 Severability**

**11.1 AMENDMENTS**

The Township Board may, after recommendation from the Planning Commission, amend, supplement, or change the provisions of this Ordinance or Official Zoning Map. Such actions shall be consistent with the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, and the following:

**11.1.1 Initiation Of Amendment**

Amendments to the provisions of this Ordinance may be initiated by the Township Board, Planning Commission, Zoning Administrator, or by petition from one (1) or more residents or property owners of the Township. An amendment to the Official Zoning Map (rezoning) may be initiated by the Township Board, Planning Commission, Zoning Administrator, or by the titleholder for the property subject to the proposed amendment. No fee shall be charged for amendments initiated by the Township Board, Planning Commission, or Zoning Administrator.

**11.1.2 Standards**

In considering an amendment to the Official Zoning Map (rezoning), the Planning Commission shall consider the following factors in making its findings and recommendations:

- A. Consistency with the Master Plan’s goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.
- B. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site’s physical, geological, hydrological, and other environmental features.
- C. Compatibility of all the potential uses allowed in the proposed district(s) with surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
- D. Capacity of available utilities and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Berrien County with unplanned capital improvement costs or other unplanned public expenses.
- E. Capability of the road system to safely and efficiently accommodate the expected traffic generated by uses permitted in the zoning district(s).

- F. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
- G. The boundaries of the proposed district(s) in relationship to the surrounding area and the scale of future development on the site.
- H. The requested rezoning will not create an isolated or incompatible zone in the neighborhood.
- I. Other factors deemed appropriate by the Planning Commission and the Township Board.

### 11.1.3 Submittal Requirements

An amendment to this Ordinance (except those initiated by the Township Board, Planning Commission, or Zoning Administrator) shall be initiated by submission of a complete and accurate application to the Township, along with the required fee established by the Township Board. In the case of an amendment to the official Zoning Map, the following information shall accompany the application and fee:

- A. A legal description and street address of the subject property, together with a survey and location map identifying the subject property in relation to surrounding properties.
- B. The name and address of the owner of the subject property, and a statement of the applicant's interest in the subject property, if not the owner in fee simple title.
- C. The existing and proposed zoning district designation of the subject property and surrounding properties.
- D. A written description of how the requested amendment meets the criteria stated in this Section.

### 11.1.4 Amendment Review Procedure

Proposed amendments to this Ordinance or Official Zoning Map shall be reviewed in accordance with the following:

- A. Completeness Review: Upon receipt of an application to amend this Ordinance, the Zoning Administrator shall review the application to confirm all required material has been submitted. The Zoning Administrator shall notify the applicant of any outstanding items.
- B. Technical Review: Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate Township

officials for review and comment. The Zoning Administrator may also submit the application materials to designated Township consultants for review.

- C. Public Hearing: A public hearing shall be held for all proposed amendments in accordance with the procedures in **Section 10.8** pursuant to the Michigan Zoning Enabling Act.
- D. Planning Commission Consideration and Recommendation: Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all relevant factors and shall report its findings and recommendation to the Berrien County Planning Commission, which will review and provide comment. The Planning Commission will review Berrien County Planning Commission recommendations and then shall report its findings and recommendation to the Township Board.
- E. Township Board Action: The Township Clerk shall forward a copy of the proposed amendment and report and recommendation from the Planning Commission to the Township Board for consideration and final action.
  - 1. The Township Board may adopt or reject the proposed amendment or may refer the amendment back to the Planning Commission for revision or further consideration. If the Township Board requests revisions to the proposed amendment, the amendment and requested revisions shall be referred back to the Planning Commission for further consideration.
  - 2. The Township Board may, at its discretion, hold additional public hearings on the proposed amendment following the procedures in **Article 10**.

#### 11.1.5 Effective Date

A notice of adoption of an approved amendment shall be published in a newspaper of general circulation in the Township within fifteen (15) days of adoption. The amendment shall become effective seven (7) days after being published.

#### 11.1.6 Re-Application

Whenever an application for an amendment to this Ordinance has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Board for a period of one (1) year unless the Zoning Administrator determines that one or more of the following conditions has been met:

- A. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
- B. New or additional information is available that was not available at the time of the review.

C. The new application is materially different from the prior application.

## 11.2 SEVERABILITY

If any article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the Township intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of this Ordinance following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

<b>ARTICLE 12: TITLE AND PURPOSE</b>
12.1 Title 12.2 Purpose 12.3 Area of Jurisdiction 12.4 Relationship to the Master Plan

**12.1 TITLE**

This ordinance shall be known and may be cited as the Township of New Buffalo Zoning Ordinance, as amended, and is referred to herein as the "Ordinance."

**12.2 PURPOSE**

Pursuant to the authority conferred to the Township of New Buffalo by Michigan Zoning Enabling Act, Public Act 110 of 2006 of the State of Michigan, as amended, the Township Board of the Township of New Buffalo hereby adopts the following regulations on the use of land and structures for the purpose of promoting and protecting the public health, safety, convenience, and general welfare of the current and future inhabitants of the Township. Provision is made herein:

- A. To conserve and protect land resources while providing reasonable use and enjoyment by residents, businesses, and industry, thereby ensuring land uses shall be situated in appropriate locations and compatible with the existing or planned development of the surrounding area;
- B. To regulate the location, size, density, and types of uses;
- C. To specify standards for development such as minimum area, maximum height, setbacks, bulk;
- D. To integrate residential and non-residential uses where appropriate and beneficial to the community;
- E. To limit overcrowding of land and the ecosystem and to provide for open space;
- F. To facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, emergency services, and other public services and facilities;
- G. To retain and improve the quality of life in the Township;
- H. To designate the use of certain state licensed residential facilities;
- I. To divide the Township into districts and establish the boundaries thereof;
- J. To provide for changes in the regulations, restrictions, and boundaries of such districts;
- K. To provide methods to adopt amendments;
- L. To provide for administration.



**12.3 AREA OF JURISDICTION**

The provisions of this Ordinance shall apply to all private development throughout the incorporated areas of the Township of New Buffalo, Berrien County, Michigan, to the extent permitted by law. The area of jurisdiction is referred to herein as the "Township."

**12.4 RELATIONSHIP TO THE MASTER PLAN**

This Ordinance is a tool used by the community to effectuate the recommendations of the Township of New Buffalo Master Plan and other planning documents, which serve as a guide to the long-term physical development of the Township

**ARTICLE 13: DEFINITIONS**

**ABUTTING:** Having a common border with. In the diagram below, each parcel abuts the parcels on either side of it, but not the parcels immediately across a public right of way.

**ACCESSORY BUILDING OR STRUCTURE:** A building or structure, that is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal building and/or structure to which it is exclusively related.

**ACCESSORY USE:** A use that is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related.

**ADULT FOSTER CARE FACILITY:** A facility defined as an “adult foster care facility” by the Adult Foster Care Facility Licensing Act, Michigan Public Act 218 of 1979 (MCL 400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An “adult foster care facility” includes licensed homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an on-going basis, but who do not require continuous nursing care.

**ADULT FOSTER CARE FAMILY HOME:** A private residence with the approved capacity under the Adult Foster Care Licensing Act of the State of Michigan to receive six or fewer adults to be provided with 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.

**ADULT FOSTER CARE GROUP HOME:** A private residence with the approved capacity under the Adult Foster Care Licensing Act of the State of Michigan to receive more than six adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care group home licensee shall be a member of the household, and an occupant of the residence.

**AGRICULTURAL ASSEMBLY SPACE:** An agricultural tourism use designed to provide an assembly space for small-scale entertainment, weddings, birthday parties, corporate picnics, and other similar events on property that is actively engaged in agricultural processes.

**AGRICULTURAL DISTRICTS:** This term encompasses the AGR district.

**AGRICULTURAL TOURISM:** A use that involves the visiting of an agribusiness, horticultural, or agricultural operation, including but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation. Also referred to as “ag-tourism” or “agri-tourism”.

**AGRICULTURAL USE:** The employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or feeding (including grazing), breeding, managing, selling, or producing livestock.

**AGRICULTURAL USE, INTENSIVE:** An animal slaughter house or slaughter operation, meat processing plant, farm implement sales, farm implement reconditioning, fertilizer sales, seed cleaning and distribution, custom crop application, and wood chip processing and distribution operations.

**ALLEY:** Any dedicated public way affording a secondary means of access to an abutting property, and not intended for general traffic circulation.

**ALTERATION:** Any change, addition, or modification in construction to a structure or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the completed act of which may be referred to herein as "altered" or "reconstructed."

**AMENDMENT:** Any change to the districts of the zoning map (rezoning) or text of this ordinance, master plan, sub area plan, or similar adopted plans or development approval.

**APARTMENT:** A dwelling unit that only occupies a portion of the building within which it is located and is occupied by a renter or tenant.

**APPEAL:** An appeal to the Zoning Board of Appeals or designated body where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official or body in the enforcement of this Ordinance.

**APPROVAL AUTHORITY:** Any Board, Commission, or administrative official tasked with rendering a final decision on an application.

**ARCHITECTURAL FEATURES:** The components of construction, either permanent or temporary, that are an integrated part of a structure or attached to a structure and constitute a portion of the exterior design, including, but not limited to: arches, transoms, windows, moldings, columns, capitals, dentils, lintels, parapets, pilasters, sills, cornices, cupolas, awnings, and canopies.

**ASSISTED LIVING FACILITY:** A structure providing housing and limited services such as nursing, recreation, and meals to individuals who are partially able to provide services to themselves.

**ATTACHED:** A building which has at least part of a wall in common with another building, or which is connected to another building by a roof or breezeway.

**ATTIC:** The area located between the ceiling of the highest habitable floor and the roof of the structure.

**AUTOMOBILE:** Every vehicle that is self-propelled.

**AUTOMOBILE REPAIR:** General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; collision service, including body frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning and oil change. Automotive repair also includes an establishment that provides for the removal and temporary storage (less than seven days) of vehicles, but does not include the disposal, permanent disassembly, or salvage, or the accessory storage of motor and/or recreational vehicles.

**AUTOMOBILE SERVICE STATION:** Any place where motor vehicle fuel is sold and dispensed as either a principal or incidental activity or where car washing services are sold. Where the sale and dispensing of vehicle fuel is the principal activity, accessory activities may include the retail sale of lubricants, tires, batteries, motor vehicle accessories and supplies, including minor installation services or repairs customarily incidental thereto, and sale of convenience goods, food and beverages.

**BAR, TAVERN, OR ALCOHOL SERVICE ESTABLISHMENT:** A place of business selling alcoholic beverages for consumption on the premises, and where the sale of food may be incidental to the sale of such beverages. This includes any establishment in receipt of a valid alcoholic license from the state.

**BASEMENT:** That portion of a building below the first or ground-floor level and having less than four feet of clearance from its ceiling to the average finished grade of the building perimeter. A basement shall not be considered a story for the purposes of determining building height. A basement shall not be counted as a story. This definition shall include a cellar that may be below grade with an entrance separate from the principal building.

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

**BEDROOM:** A room designed or used in whole or part for sleeping purposes and has a closet and window.

**BERM:** An earthen mound designed to provide visual interest on a site, screen undesirable views, and/or reduce noise.

**BREWER:** A person as defined and licensed by the Michigan Liquor Control Code.

**BREWERY:** A facility or facilities owned or controlled by a licensed Brewer.

**BUILDING:** A structure enclosed within exterior walls, built, erected and framed of a combination of materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property.

**BUILDING CODE:** The code or codes governing the erection and maintenance of buildings or structures as currently adopted by New Buffalo Township.

**BUILDING HEIGHT:** The vertical distance measured from the finished grade to:

- The highest point of the roof surface for at roofs;
- To the deck line of mansard roofs; and
- To the average height between eaves and ridge for the highest gable, hip studio, and gambrel roofs.

- Seventy-five (75) percent of the height of an A-frame.
- The number of habitable stories when maximum height is defined by stories, which shall not include attics or basements.
- Where a building is located on sloping terrain, the height shall be measured from the average grade at the building wall.

**BUILDING HEIGHT, STORIES:** The vertical distance measured as the number of individual floors in a building that can be occupied. Stories does not include basements or attics as defined in this Ordinance, permitted rooftop patios, or architectural features such as cupulas, steeples, etc.

**BUILDING LINE:** A line parallel to the street line formed by the face of the building or touching that part of a building closest to the street. For the purposes of this Ordinance, a minimum building line is the same as the front setback.

**BUILDING SITE:** This term shall be used in connection with manufactured homes the area within the site unit by itself (i.e., exclusive of any appurtenant limited common element) dedicated exclusively for the use of the unit, including the area under the building envelope, the area around and contiguous to the building envelope, and any limited common element dedicated solely to the one unit.

**BUILDING SUPPLY AND EQUIPMENT ESTABLISHMENT:** Retail sales or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and includes establishments devoted principally to taxable retail sales to individuals for their own use.

**BUS TERMINAL OR TRAIN STATION:** Any premises for the transient housing or parking of motor-driven buses or trains and the loading and unloading of passengers.

**BUSINESS:** A commercial establishment, office, institutional, or industrial use which produces and/or distributes goods and/or services.

**BUSINESS SERVICE ESTABLISHMENT:** A use that performs services on the premises, such as office machine repair, printing, and copy.

**CAMPGROUNDS:** As defined by Michigan's Public Health Code, 1978 PA 368. "Campground" means a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units. Campground does not include a seasonal mobile home park licensed under the Mobile Home Commission Act, Michigan Public Act 96 of 1987, MCL 125.2301 to 125.2349.

**CEMETERY:** Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual internment of deceased human beings or household pets.

**CHILD CARE CENTER:** A facility, other than a private residence, licensed by the State of Michigan, in which one or more preschool or school age children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center is limited to a facility which provides care for two or more consecutive weeks, regardless of the number of hours of care per day.

**CHILD FAMILY DAY CARE HOME:** A private home in which at least which one (1) but less than seven (7) minor children are given care and supervision for periods of less than 24 hours per day, unattended by a parent or legal guardian, except children related to an adult member of the Family by blood, marriage, or adoption. Family day-care home includes a home that gives care to an unrelated minor child for more than any four (4) weeks during any calendar year. Family Day Care Homes must meet the standards set forth by the State of Michigan

**CHILD GROUP DAY CARE HOME:** A private home in which more than six but not more than twelve minor children are given care and supervision for periods of less than 24 hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home that gives care to unrelated minor children for more than any 4 weeks during any calendar year.

**CHURCH:** See religious institution.

**COLLOCATE or COLLOCATION:** to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

**COMMERCIAL EXCAVATION AND DREDGING:** A commercial business engaged in the process of altering the natural elevation or bathymetry of a landscape, removing earth from a bed of a stream, lake, or vegetated shallows, or any activity in which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

**COMMERCIAL LODGING:** A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house.

**COMMERCIAL SCHOOLS:** Schools operated privately and for-profit including, but not limited to, dance, music, trade, martial arts schools.

**COMMUNICATIONS TOWER:** A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structures.

**CONDOMINIUM:** A condominium is a system of separate ownership of individual units in multi-unit projects according to Michigan 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 interest and in the spaces and building parts used in common by all the unit owners. For the purposes of this Ordinance, condominium terms shall be defined as follows:

- **CONDOMINIUM ACT:** Shall mean Michigan Public Act 59 of 1978, as amended.

- CONDOMINIUM LOT: That portion of the land area of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in the Schedule of Dimensional Requirements of this Ordinance.
- CONDOMINIUM SUBDIVISION PLAN: Drawings and information that 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 Condominium, as amended.
- CONDOMINIUM MASTER DEED: The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.

CONTRACTOR STORAGE YARD: A site on which is stored equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction trades. A contractor's yard may include outdoor or indoor storage, or a combination of both.

CROSS-ACCESS: A non-right-of-way connection for automobiles between two or more separately owned or leased commercial non-residential uses, usually controlled by an easement among the benefitted and burdened properties or some other similar license or agreement.

DECK: A platform that is typically attached to a house and used for outdoor leisure activities.

DENSITY: The number of dwelling units allowed per acre of land.

DENSITY, GROSS: The number of units per acre of total land being developed.

DENSITY, NET: The number of units per acre of land devoted to residential use.

DETACHED: A building which does not have at least part of a wall in common with another building, or which is not connected to another building by a roof or breezeway.

DEVELOPMENT: The construction of a new building reconstruction of an existing building, or improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

DISTILLER: A person as defined and licensed by the Michigan Liquor Control Code.

DISTILLERY: A facility or facilities owned or controlled by a licensed Distiller.

DONATION BIN: A structure used for the collection of unwanted goods and items deposited without reimbursement and without an attendant present. Donation bins do not include recycling drop-off bins.

DRIVE-THROUGH ESTABLISHMENT: A business in which all or part of the business consists of providing goods and services from a drive-through window to patrons in motor vehicles.

**DRIVEWAY:** A passageway of definite width designed primarily for use by motor vehicles over private property, leading from a street or other public way to a garage or parking area. A horseshoe shape drive or a "T" shaped drive located within a front yard is included within this definition.

**DRY CLEANING AND LAUNDRY ESTABLISHMENT:** An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry cleaning equipment or machinery on the premises.

**DWELLING UNIT:** A room or rooms connected together, constituting a separated, independent housekeeping establishment for an individual or one-household occupancy, physically detached from any other rooms or dwelling units and containing independent cooking, bathroom, and sleeping facilities. In no case shall a motor home, trailer, automobile chassis, tent, or portable building be used as a dwelling. In the case of mixed occupancy, the part of a building occupied as a dwelling shall be deemed the dwelling unit and shall comply with all applicable provisions of this Ordinance for dwellings.

**DWELLING, ABOVE COMMERCIAL GROUND FLOOR:** A residential unit above the first floor of a business, office, or institutional building.

**DWELLING, BASEMENT:** Any dwelling without a full floor above grade level shall be considered a basement dwelling.

**DWELLING, MULTIPLE FAMILY:** A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each.

**DWELLING, ONE-FAMILY OR DWELLING, SINGLE-FAMILY:** A building designed for and occupied exclusively by one (1) family.

**DWELLING, TOWNHOUSE:** A building containing three or more dwelling units where each dwelling unit is divided by a party wall extending the full height of the building with no visible separation between walls or roof, and where dwelling units have a horizontal separation but not a vertical separation. Each townhouse dwelling is capable of individual use and maintenance without trespassing on adjoining in dwellings and access, and utilities and service facilities are independent for each dwelling. Each dwelling unit has a first floor entrance into the unit directly from the exterior of the building.

**DWELLING, TWO-FAMILY OR DUPLEX:** A building designed exclusively for occupancy by two (2) families living independently of each other.

**EQUIPMENT COMPOUND:** an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

**ERECTED:** Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises that are required for construction, excavation, drainage, and the like, shall be considered a part of erection.



**FENCE:** An artificially constructed barrier of wood, wire, metal, or any other material or combination of materials, used to prevent or control entrance, confine within, mark a boundary, or constitute an obstruction to human passage regardless of the component material.

**FINANCIAL SERVICES:** Any trust company, savings bank, industrial bank, savings and loan association, building and loan association, commercial bank, credit union, federal association, investment company, or other business association, which is chartered under federal or state law, solicits, receives, or accepts money or its equivalent on deposit and loans money as a regular business.

**FLOOD PLAIN:** Is deemed to mean that area of land adjoining a natural watercourse within the Township that is subject to either periodic flooding as established by the profiles in the most current report of a flood insurance study by the Federal Emergency Management Agency (FEMA) as flood hazard areas (i.e., lands within the 100-year flood boundary). A flood plain shall not necessarily include a drainage district established by the County or Township.

- **Flood Hazard Area:** The area of very slow-moving water or slack water outside of the floodway during times of flood.
- **Floodway:** The channel of a river or stream and area adjacent to the channel that will carry moving water during times of flood. This is a high hazard portion of the floodplain with rapidly moving water during times of flood.

**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 and summing the total square footage.

**FLOOR AREA, USABLE COMMERCIAL:** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities shall be excluded from the computation of "usable floor area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

**FOOD TRUCK:** A kitchen within a licensed and operable motor vehicle or trailer whose method of operation is temporary and may be transient or in a static location and involves the preparation and sale of food and/or nonalcoholic beverages in a ready-to-consume state for consumption either on or off the premises, but not within the motor vehicle and/or trailer.

**FRONTAGE:** The continuous linear distance of that portion of a parcel abutting upon a public street right-of-way or private street easement.

**FUNERAL HOME:** A building or part thereof used for human funeral services.

**GOLF FACILITIES:** A tract of land improved with a principal building, tees, greens, fairways, and hazards designed for the game of golf. Also includes related accessory buildings.

**GRADE:** The elevation at any point on the ground surface of a lot.

**GRADE, AVERAGE:** The average finished ground elevation at all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the average of the level of the ground at the wall. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**GRADE, FINISHED:** The completed surfaces of lawns, walks, and roads, brought to grades as shown of plans or designs related hereto.

**GREENHOUSE or NURSERY:** A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

**GUEST QUARTERS:** One or more rooms intended for overnight occupancy (or longer) by individuals other than a member of the family that occupies the primary residence.

**HAZARDOUS MATERIALS:** All highly flammable materials or products that may react to cause a fire or explosion hazard; or that because of their toxicity, flammability, or liability for explosion render firefighting abnormally dangerous or difficult. This also includes flammable liquids or gases that are chemically unstable and that may spontaneously form explosive compounds or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous materials and chemicals shall include flammable solids, corrosive liquids, radioactive materials, oxidizing materials, potentially explosive chemicals, highly toxic materials, and poisonous gases that have a degree of hazard rating in the health, flammability or reactivity of three (3) or four (4) as ranked by NFPA 704 and as adopted by the Township and/or all items that are regulated as hazardous materials under Michigan Public Act 451 of 1994, as amended (MCLA 324.101 - 324.90106).

**HEIGHT:** The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface or parapet wall that extends above the roof, whichever is higher.

**HOME OCCUPATION:** An occupation or profession carried on by the occupant of a dwelling unit which is conducted within a dwelling or accessory building and which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes

**HOUSING FOR THE ELDERLY:** A residential facility that provides room, board and supervised care to unrelated, non-transient individuals 60 years of age or older or couples where either the husband or wife is 60 years of age or older. Such facility shall be licensed as a "home for the aged" by the State of Michigan under Article 17 of the Public Health code, Michigan Public Act 368 of 1978 (MCL 333.20101 et seq., MSA 14.15 (20101)), as amended. This does not include a development that contains convalescent or nursing home as licensed under Michigan Public Act 139 of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Michigan Public Act 151 of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

IMPERVIOUS SURFACE: Any material which prevents or impedes infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation- bearing soils, including building, asphalt, concrete, gravel, and other surfaces.

INDOOR RECREATION FACILITY: An establishment which provides indoor exercise facilities and/or indoor court and field sports facilities, and which may include spectator seating in conjunction with the sports facilities such as skating rinks, swimming pools, indoor golf facilities, pool or billiard halls and bowling alleys. Auditoriums and stadiums are not included.

INDUSTRIAL DISTRICTS: This term encompasses the I district.

INGRESS AND EGRESS: A driveway that allows vehicles to enter or leave a parcel of property, or to a sidewalk that allows pedestrians to enter or leave a parcel of property, a building, or another location.

KENNEL: Any premises, except where accessory to an agricultural use, where three or more domestic animals, such as dogs and cats, are boarded, trained, bred or sold.

LABORATORY: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture of sale of products, except as incidental to the main purpose of the laboratory.

LAKE: A permanent body of open water over two acres in size, regardless of "public" or "private" status under State of Michigan law.

LAND DIVISION ACT: Michigan Public Act 288 of the Public Acts of 1967, as amended.

LAND USE PERMIT: Shall mean the same as a zoning permit, per the Michigan Zoning Enabling Act.

LANDING FIELD, PRIVATE AND NON-COMMERCIAL: Any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas designated, set aside, used, or intended for use for approach zones, together with all airport buildings and facilities located thereon, provided such facilities are privately-owned and not operated for profit.

LANDSCAPING BUSINESS: An enterprise dedicated to the creation of structures, vegetation, trees, and paths on properties outside the main building of the client property. Its own business property onsite activity includes the storage of equipment and materials used in the business as well as the growing of plants and trees used in the business. It may or may not have a building on the business property.

LIGHT MANUFACTURING: The act of processing, assembling, fabricating, treating and packaging of raw or unfinished materials into a more complete or finished product, and incidental storage sales and distribution of such products, which may be perceived to have a relatively limited to moderate potential for adverse effect on surrounding properties and the environment, including noise, vibration, pollution, odor, and aesthetics.

LIGHT SOURCE: The bulb or other element in an outdoor light fixture which emits light.

**LOADING SPACE:** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

**LOT (CONFORMING):** For the purposes of enforcing this Ordinance, a lot is defined as a piece of land under single ownership or control that is sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, access, and open space as required herein. Single ownership may include ownership by an individual, a corporation, a partnership, an incorporated association, joint tenancy, or any similar entity. A lot shall have frontage on a dedicated road or, if permitted by the regulations set forth herein, on an approved private road. A lot may consist of any of the following:

- Single lot of record
- Portion of a lot of record
- Combination of lots of record, or portion(s) thereof
- Condominium lot
- Parcel or tract of land described by metes and bounds.

**LOT COVERAGE:** The percent of the lot covered by buildings and accessory structures.

**LOT DEPTH:** The horizontal distance between the front street line and rear lot line, measured along the median between the side lot lines.

**LOT LINES:** The lines bounding a lot as defined herein:

- **Front Lot Line:** In the case of an interior lot, is that line separating said lot from the public or private right of way. In the case of a corner lot, or double frontage lot, is that line separating said lot from the road that is designated as the front on the plat, or that is designated as the front of the site plan review application or request for a building permit, subject to approval by the Planning Commission or Zoning Administrator. On a ag lot, the front lot line shall be the interior lot line parallel to and nearest the street from which access is obtained.
- **Rear Lot Line:** That lot line opposite and most distant from the front lot line. In the case of irregular, triangular, wedge-shaped or a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot. In cases in which the rear lot line definition cannot be easily applied, the Zoning Administrator shall designate the rear lot line.
- **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots in an interior side lot line. In cases in which the side lot line definition cannot be easily applied, the Zoning Administrator shall designate the side lot line(s).

**LOT OF RECORD:** A parcel of land, the dimensions of which are shown on a plat, document or other formal map on file with the County Register of Deeds or in common use by the Township or County Officials, and which actually exists as so shown, 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 County Register of Deeds. A lot of record may also be identified to or tax parcel identification number.

**LOT WIDTH:** The horizontal straight line distance between the side lot lines, measured between the two points where the required front setback line intersects the side lot lines.

**LOTS, CONTIGUOUS:** Lots adjoining or abutting each other. Lots separated by a right-of-way, road easement or natural or man-made barrier shall not be considered contiguous.

**LOT, CORNER:** A lot abutting on and at the intersection of two (2) or more streets, with two front yards and two side yards. For the purposes of this definition, the "street" lot line shall be the line separating the lot from the street or road right-of-way.

**LOT, INTERIOR:** Any lot other than a corner lot with only one (1) lot line fronting a street.

**LOT, UNBUILDABLE:** Any lot that, when created, did not meet the zoning standards in force at the time of its creation. If there was no zoning ordinance when the lot was created, then it is a buildable, non-conforming lot of record. Two lots with common ownership and continuous frontage that, when combined, did not meet the Zoning Standards also constitute an unbuildable lot.

**LOT, WATERFRONT:** A lot having a property line abutting a waterbody.

**LOW IMPACT DEVELOPMENT STORMWATER MANAGEMENT:** LID includes a variety of practices that mimic or preserve natural drainage processes to manage stormwater. LID practices typically retain rain water and encourage it to soak into the ground rather than allowing it to run off into ditches and storm drains where it would otherwise contribute to flooding and pollution problems. Examples include, but are not limited to rain gardens, rooftop gardens, vegetated swales, cisterns, permeable pavers, porous pavement, and altered stormwater structures.

**MAIN BUILDING:** A building in which is conducted the principal use of the lot upon which it is situated.

**MANUFACTURE OF CORROSIVE SUBSTANCES:** A building in which the manufacture of corrosive acid or alkali, cement, asphalt, lime, gypsum, or plaster of Paris is a primary activity.

**MANUFACTURE OF PRODUCTS:** The mechanical or chemical transformation of materials or substances into new products, including the assembling or component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

**MANUFACTURED HOME:** A transportable, factory-built home with an attached undercarriage frame, designed to be used as a year-round residential dwelling.

**MANUFACTURED HOME PARK:** A parcel or tract of land under the control of a person up which three or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a campground or temporary trailer park.

**MARINA:** A commercial facility that extends into or over a lake or stream for the mooring, berthing, storing, sales, repair, or securing of watercraft. A marina may include fuel sales for watercraft.

**MASTER PLAN:** The Master Plan currently adopted by New Buffalo Township, including graphic and written proposals, indicating the general location for streets, parks, schools, public facilities, and all physical development of the Township, and any unit or part of such plan and any amendment to such plan.

**MICHIGAN ZONING ENABLING ACT:** Michigan Public Act 110 of 2006 (MCL 125.3101) as amended.

**MIXED-USE DEVELOPMENT:** Means a real estate project with planned integration of some combination of retail, office, residential, hotel, recreation, or other functions. It shall be pedestrian-oriented and contain elements of a work-live-play environment that maximizes space usage, has amenities and architectural expression, and mitigates traffic and sprawl.

**MIXED-USE DISTRICT:** This term encompasses the C-1, C-2, and HCD Districts.

**MUNICIPAL BUILDINGS:** Buildings owned and operated by the Township of New Buffalo or another municipality.

**NATURAL FEATURES:** Natural features shall include soils, wetlands, floodplain, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

**NONCONFORMING LOT:** A lot that fails to meet the requirements for area, height, yards, buffer, or other bulk standards and regulations, generally applicable in the district because of a change in the applicable zoning district regulations, annexation, condemnation of a portion of the lot, or other governmental action.

**NONCONFORMING USE:** A use that was lawfully established but that no longer complies with the use regulations applicable to the zoning district in which the property is located.

**NONCONFORMING STRUCTURE:** A structure that was lawfully erected but that no longer complies with all the regulations applicable to the zoning district in which the structure is located.

**NURSERY SCHOOL:** A daytime facility which has as its main objective a development program for pre-Kindergarten children and whose whole staff meets the educational requirements established by the State.

**NURSING HOME:** A nursing care facility licensed as a "nursing home" by the State Department of Public Health under Article 17 of the public health code, Michigan Public Act 368 of 1978 (MCL

333.2010 et seq., MSA 14.15 (20101) et seq.), as amended. A “nursing home” as defined by this section shall include extended care facility and convalescent home.

OBSCURING WALL: Shall mean a structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

OCCUPIED: Used in any manner. Includes the meaning of intent, design, or arranged for occupancy.

OFF-STREET PARKING: A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three vehicles on any lot other than a single-family lot.

OPEN-AIR BUSINESS: A permanent, seasonal, or temporary retail sales establishment operated substantially in the open air, including but not limited to:

- Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, artisan products, playground equipment, and other home garden supplies and equipment but not including lumber yards.
- Bicycle utility truck or trailer, motor vehicle, boats, or home equipment sales, repair, or rental services.
- Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.

OPEN SPACE: That part of a parcel, including courts and/or yards, that is open and unobstructed from its lowest level to the sky, and is accessible to all residents upon the zoning lot.

ORDINANCE: New Buffalo Township Zoning Ordinance as amended.

ORDINARY HIGH WATER MARK: A line between upland and bottomland, which persists through successive changes in water levels, below which the present 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. The Ordinary High Water Mark is established by the Michigan Department of Environment and Great Lakes (EGLE).

OUTDOOR COMMERCIAL RECREATION: Predominantly uses conducted in open or partially enclosed or screened facilities. Typically uses include driving ranges, miniature golf, swimming pools tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks and motorized model airplane flying facilities.

PARCEL: A tract of land which has been legally described and is capable of being located by survey.

**PARKING SPACE:** An area of definite length and width. Said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

**PERFORMANCE GUARANTEE:** A financial guarantee to ensure that specific improvements, facilities, construction or activities required or authorized by this Ordinance will be completed in compliance with the Ordinance, regulations, and/or approved plans and specifications of the development.

**PERMITTED USE:** A permitted use is a use that may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district and this Ordinance.

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

**PERSONAL SERVICE ESTABLISHMENT:** A use that performs services on the premises, such as barber and beauty shops, watch, radio, television, clothing, and shoe repair shops; tailor; photographic studios; locksmiths; and similar establishments requiring some minor retail activity.

**PLANNED UNIT DEVELOPMENT (PUD):** A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages permitted as a separate, newly created zoning district by the Planning Commission. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

**PLANNING COMMISSION:** The Planning Commission of the Township of New Buffalo, Berrien County, Michigan as designated in the Michigan Planning Enabling Act, Michigan Public Act 33 or 2008.

**PLOT PLAN:** A plan that is prepared according to requirements stated in this Ordinance, containing required information required for a plot plan. A plot plan is less detailed than a formal site plan. A plot plan is generally used for discussion or conceptual purposes in advance of a formal site plan submission. A plot plan does not substitute for a formal site plan.

**PRINCIPAL USE:** The main use to which the premises are devoted.

**PRIVATE CLUBS, FRATERNITIES, LODGES, ASSEMBLY BUILDINGS:** An organization of persons for charitable, fraternal or social purposes or for the promulgation of agriculture, sports, arts, science, literature, politics, or the like, but not operated to espouse beliefs or further activity that is not in conformance with the Constitution of the United States or any law or ordinances.

**PRIVATE STREET:** A private street shall mean any roadway or drive which is not a dedicated public road right-of-way, and which provides the primary means of ingress/egress to two or more lots or dwelling units, whether created by private road right-of-way, agreement, license, lease, joint ownership, easement or prescription. Any and all extensions to a private street shall be considered part of the primary private street to which the extension is attached. The term "private street" shall also include a path, drive, trail or road which is privately built and maintained. The term "street" shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.



PROFESSIONAL SERVICE ESTABLISHMENT: A use that performs services on the premises such as doctors, dentists, brokers, accountants, and real estate offices.

PROPERTY LINE: The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also: LOT LINE.

PROPERTY OWNER: An individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity who owns or holds title to real property.

PROTECTED ROOT ZONE: The area surrounding the trunk of a tree established with a radius of one and a half (1.5) feet for every one (1) inch caliper of trunk where to grading, cutting, storing or materials, or moving of machinery may occur.

PUBLIC STREET: A public dedicated right-of-way other than an alley, which affords the principal means of access to property abutting the street. The term "street" shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.

PUBLIC UTILITY: A person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage service or treatment, communication services, cable television services, telegraph, transportation or water.

RECREATION FACILITIES, PRIVATELY-OWNED AND NOT-FOR-PROFIT: Properties and facilities owned or operated by any private or nonprofit agency, for recreational purposes.

RECREATION FACILITIES, PUBLICLY-OWNED: Properties and facilities owned or operated by any governmental agency for recreational purposes.

RECREATIONAL VEHICLE SALES: The use of any building or portion thereof, for the display, sale, rental, or lease of new recreational vehicles, or used motor vehicles as an ancillary use of a zoning lot.

RECYCLING CENTER: A building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

RELIGIOUS INSTITUTION: A building wherein persons assemble regularly for religious worship, maintained and operated by an organized religious body. Accessory uses, buildings and structures customarily associated with the religious institution are classified as part of the principal use as a church, temple, synagogue, or similar religious structure and or institution.

RESIDENTIAL DISTRICTS: This term encompasses the AG-R, R-1, R-2, and MR districts, and any residential uses within an approved land development.

RETAIL ESTABLISHMENT: Retail businesses whose principal activity is the sale of new merchandise within a completely enclosed building.

**RESTAURANT:** An establishment in which the principal use is the preparation and sale of food and beverage. The food and beverage may be consumed on-site, carried out, or offered for delivery. Restaurants may include the sale of prepared food and beverages to other establishments for resale or consumption.

**RIGHT OF WAY:** A strip of land owned by the public or dedicated to the public by easement and intended to be occupied by a street, trail, or utility.

**SCHOOL, PUBLIC:** An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, operated by a public entity.

**SETBACK:** The distance required to obtain minimum front, side, or rear yard open space provisions of this Ordinance.

**SETBACK, ACCESSORY BUILDING:** The setback exclusively applicable to the accessory building(s) on a property.

**SETBACK, PRINCIPAL BUILDING:** The setback exclusively applicable to the principal building(s) on a property.

**SEXUALLY ORIENTED BUSINESS:** A business or commercial enterprise engaging in any of the following, or other similar uses:

*Adult Arcade:* Any place to which the public is permitted or invited wherein coin- operated or slug-operated electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

*Adult Bookstore or Adult Video Store:* an establishment having 25% or more of its stock in trade, materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined.

*Adult Mini Motion Picture Theatre:* an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting describing or relating to "specified sexual activities" or " specified anatomical areas," as hereinafter defined for observation by patrons therein;

*Adult Motion Picture Theater:* An enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein.

*Adult Sexual Paraphernalia Store:* an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

*Massage Parlor:* an establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient.

*Open Dance Hall:* an establishment where open public dancing by patrons is available during at least four days per week with or without partners furnished by the establishment.

*Host or Hostess Establishment:* establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess for an admission or membership fee.

*Specified Anatomical Areas:* Means and includes any of the following:

- Less than completely and opaquely covered human genitals, pubic region, buttocks, and/or female breast below a point immediately above the top of the areola.
- Human male genitals in a discernible turgid state even if completely or opaquely covered.

*Specified Sexual Activities:* Means and includes any of the following:

- Human genitals in a state of sexual arousal;
- Acts of or simulated acts of human masturbation, sexual intercourse, sodomy, bestiality, fellatio or cunnilingus; or
- Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
- Excretory functions as part of or in connection with any of the activities set forth above.

**SHORELINE:** The ordinary high water line of a lake, stream, or other natural or man-made body of water, as defined by the State of Michigan and/or the Federal Government.

**SIGN:** Any device, structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message. Sign includes the sign faces as well as any sign supporting structure. See **Article 5** for definitions of individual sign types.

**SIGN, ABANDONED:** A sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 180 days, in the case of billboard signs, or at least 360 days in the case of all other signs.

**SIGN, BANNER:** A sign made of fabric, cloth, paper, or other non-rigid material.

**SIGN, OFF-PREMISE COMMERCIAL ADVERTISING:** A sign containing a message regarding services or products, activities, persons or events that are not made, produced, assembled, stored, distributed, leased, sold or conducted on the premises upon which the sign is located.

**SIGN, ON-PREMISE COMMERCIAL ADVERTISING:** A sign containing a message regarding services, products, activities, persons or events made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the sign is located

**SIGN, SANDWICH BOARD:** An "A-frame" shaped sign that consists of two sign boards that are hinged together at the top and on which the message has been factory-imprinted, handwritten, or displayed using manual changeable copy display.

**SIGN STRUCTURE:** The supports, up-rights, bracing, or framework of any structure exhibiting a sign, be it single-faced, double-faced, or V-type or otherwise.

**SITE CONDOMINIUM:** A condominium project consisting of the site plan and master deed for detached single-family or two-family dwellings.

**SMALL DISTILLER:** A person licensed by the Michigan Liquor Control Code.

**SMALL DISTILLERY:** A facility or facilities owned or controlled by a licensed Distiller.

**SMALL WINE MAKER:** A person as defined and licensed by the Michigan Liquor Control Code.

**SMALL WINERY:** A facility or facilities owned or controlled by a licensed Small Wine Maker.

**SOLAR ENERGY COLLECTION SYSTEM, COMMERCIAL:** A ground- or roof-mounted solar installation used to distribute generated energy primarily through the utility grid but may also be utilized to meet on-site energy demand.

**SOLAR ENERGY COLLECTION SYSTEM, PERSONAL:** A ground- or roof-mounted solar installation used to distribute generated energy primarily on-site for consumption, however, excess energy output may be delivered to the power grid with or without compensation.

**SPECIAL USE:** Uses, either public or private, that possess unique characteristics and therefore cannot be properly classified as a use permitted by right in a particular zoning district or districts.

**SPECIAL USE PERMIT:** An approval for a special land use, pursuant to Section 502 of the Michigan Zoning Enabling Act.

**STORAGE FACILITY:** A building or property on which the deposition of materials or property for preservation or disposal is carried out as the principal use of the property.

**STORY:** That part of a building included between the surface of any floor, excluding basements, and the surface of the next floor, or if there is no floor above, then the ceiling next above.

**STREAM:** Shall be as defined by Part 303 of Michigan's Natural Resources and Environmental Protection Act, namely, a river, stream, or creek which may or may not be serving as a drain; or any other body of water that has definite banks, a bed, and visible evidence of a continued flow.

**STREET:** Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel, whether designated as a road, avenue, highway, boulevard, drive lane, place, court, or any similar designation.

**STRUCTURE:** Any constructed or placed item or material or combination of materials or items in, on or upon the ground having a fixed location, including, but not limited to, buildings, sheds, towers, signs, swimming pools, animal enclosures, garages, accessory buildings, decks, patios, docks, platforms, satellite dishes, gazebos, tennis courts, fences over six feet high and storage bins, but excluding sidewalks and paving on streets, driveways or parking areas. The definition of structure also excludes retention walls, seawalls, decks or patios, no portion of which is located more than twelve (12) inches above the natural grade.

**SUBDIVISION:** The partitioning or dividing of a parcel or tract of land as defined in the Michigan Land Division Act, Michigan Public Act 288 of 1967.

**TELECOMMUNICATIONS TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communications purposes. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers antenna tower alternative structures and the like.

**THEATER:** An outdoor area, building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

**TOOL AND DIE:** A building that accommodates the industrial art of manufacturing of dies, plastics molds, and jigs and fixtures to be used in the mass production of solid objects.

**TOWNSHIP BOARD:** The legislative body of the Township of New Buffalo, Berrien County, Michigan.

**TRUCK TERMINAL:** A structure to which goods, except raw or unprocessed agricultural products, natural minerals, equipment or other resources, are delivered for immediate distribution or to be amalgamated or divided for delivery in larger or smaller units to other points, or for distribution, amalgamation, or division involving transfer to other modes of transportation.

**UNDEVELOPED STATE:** A natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park, as defined by the Michigan Zoning Enabling Act.

**USE:** The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**UTILITY AND PUBLIC SERVICE BUILDING:** Buildings serving any person, firm or corporation, municipal department or board duly authorized to furnish, and furnishing under state or municipal

regulations to the public, electricity, gas, steam, communication, telegraph, transportation, or water.

VARIANCE: A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause practical difficulties (as defined in **Section 9.10**) or unnecessary hardship owing to circumstances unique to the individual property on which the variance is granted.

VEHICLE: See automobile.

WALL: An upright structure, typically constructed of wood, masonry, or stone materials, that encloses, divides, or protects an area.

WETLAND: Land characterized as a regulated wetland by the State of Michigan NREPA Part 303.

WHOLESALE ESTABLISHMENT: An establishment or place of business primarily engaged in selling or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WILDLIFE PRESERVE: Any facility which requires a license or permit from the State of Michigan such as but not limited to a Permit to Hold Wildlife in Captivity or a Game Breeder's License. The species allowed will only be those listed as permitted species listed with the Michigan Department of Environmental Quality.

WIND ENERGY CONVERSION SYSTEM: Any device or assemblage which converts wind energy into electricity through the use of a wind turbine generator which may include turbines, blades, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated electrical equipment. This does not include wiring to connect the wind energy system to the grid.

WIND ENERGY CONVERSION SYSTEM, COMMERCIAL: A wind energy conversion system established as an accessory or principal use to distribute generated energy primarily through the utility grid but may also be utilized to meet on-site energy demand.

WIND ENERGY CONVERSION SYSTEM, PERSONAL: A wind energy conversion system established as an accessory use to distribute generated energy primarily on-site for consumption, however, excess energy output may be delivered to the power grid with or without compensation.

WINE MAKER: A person as defined and licensed by the Michigan Liquor Control Code.

WINERY: A state-licensed facility or facilities that manufactures wine and is owned or controlled by a state-licensed Wine Maker, as defined and regulated by the Michigan Liquor Control Commission.

WIRELESS COMMUNICATIONS EQUIPMENT: the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power

supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

**WIRELESS COMMUNICATIONS SUPPORT STRUCTURE:** a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

**WIRELESS SERVICE, UNLICENSED:** means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) [47 USCS § 303(v)]).

**WIRELESS SERVICE FACILITIES, PERSONAL:** Means “personal wireless service facilities” as defined in the Telecommunication Act of 1996 at 47 U.S.C. 332(c)(7)(C)(ii).

**WIRELESS SERVICES, PERSONAL:** means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

**YARD:** The open space on the same lot with a main building, unoccupied and unobstructed from the ground (grade) upward except as otherwise provided in this Ordinance, and as defined herein. 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 Ordinance.

**YARD, FRONT:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. Unless otherwise specified, each yard with street frontage shall be considered a front yard.

**YARD, REAR:** An open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage, but each lot shall only have one (1) rear yard.

**YARD REQUIRED or YARD MINIMUM:** The required yard shall be that set forth as the minimum yard setback requirement for each district.

**YARD, SIDE:** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the principal building.

**ZONING ADMINISTRATOR:** The Township official(s) authorized to administer the Zoning Ordinance on a day-to-day basis, including but not limited to processing applications, granting ministerial approvals, maintaining the records of Planning Commission actions, sending notices of public hearings, and similar work.

**ZONING BOARD OF APPEALS:** The Body appointed pursuant to the provisions of Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, to serve as the Zoning Board of Appeals for New Buffalo Township.

ZONING DISTRICT: A portion of the incorporated area of the Township within which on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established under the provisions of this Ordinance.