

# Royalton Township, Berrien County

## Zoning Ordinance

Effective Date: July 23, 2008  
As Amended through March 8, 2010



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## **ACKNOWLEDGMENTS**

**March, 2010**

The participation and cooperation of the numerous community leaders and residents in the preparation of the Royalton Township Zoning Ordinance is greatly appreciated. In particular, we would like to acknowledge the efforts of the following individuals:

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## **CHAPTER 1**

### **TITLE, PURPOSE, SCOPE, AND LEGAL BASIS**

#### **Section 1.01 Short Title**

This ordinance shall be known and may be cited as the “Royalton Township Zoning Ordinance.” Within the following text, it may be referred to as the “Ordinance”, “this Ordinance”, or the “Zoning Ordinance.”

#### **Section 1.02 Purpose**

This Ordinance is based upon the Royalton Township Development Plan and is designed to:

- A. Promote the public health, safety, morals, and general welfare;
- B. Encourage the use of land in accordance with its character and adaptability thereby limiting the improper use of land;
- C. Avoid the overcrowding of population;
- D. Lessen congestion on the public roads and streets;
- E. Reduce hazards to life and property;
- F. Facilitate the adequate provision of a system of transportation, disposal of sewage, safe and adequate water supply, quality education and recreation, and other public requirements; and
- G. Conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources, and properties.

This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

#### **Section 1.03 Scope**

No building or structure, or part thereof, shall hereafter be erected, constructed, converted, enlarged, reconstructed, or altered, nor shall any structure, building, or land be used, occupied, designed, or arranged for any purpose other than as is established in each district by this

Ordinance. Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, or land than are imposed or required by existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

**Section 1.04      Legal Basis**

This Ordinance is enacted pursuant to Act 110, the “Michigan Zoning Enabling Act”, of the State of Michigan Public Acts of 2006, as amended.

## CHAPTER 2 DEFINITIONS

### Section 2.01 Rules Applying to Text

The following listed rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. With the exception of this Chapter, the headings which title a chapter, section, or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Unless the context clearly indicates to the contrary, words used in the present tense shall include the future tense; words used in the singular number shall include the plural number; and words in the plural number shall include the singular number.
- E. A “building” or “structure” includes any part thereof.
- F. The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- G. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended”, “arranged”, “designed to be used”, “maintained”, or “occupied”.
- H. Any word or term not defined herein shall be considered to be defined in accordance with its common standard definition.
- I. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, “either...or”, the conjunction shall be interpreted as follows:
  - 1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

- 3. “Either...or” indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- J. The word “he” includes “she.”
- K. The phrase “such as” shall mean “such as, but not limited to.” The phrase “including” shall mean “including, but not limited to.”
- L. Terms not defined in this Ordinance shall have the meaning customarily assigned to them.

**Section 2.02 Definitions**

The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

**Abandonment.** The relinquishment or cessation of the use of land or property by the owner or lessee without any intention of transferring rights to the land or property to another owner or of resuming use of the land or property.

**Access Management.** A technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

**Accessory Use or Structure.** A use, building, or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

**Adult Care Facility.** A facility which provides daytime care for any part of a day but less than twenty-four (24) hours a day for functionally impaired elderly persons through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client’s home.

**Adult Foster Care Facility.** An establishment that provides supervision, personal care, and protection in addition to room and board, for twenty four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation for adults over eighteen (18) years of age. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential center for persons released from or assigned to a correctional facility. These facilities are licensed and regulated by the state under Michigan Public Act 218 of 1979,



as amended, and rules promulgated by the Michigan Department of Consumer and Industry Services, and are classified as follows:

**Adult Foster Care Congregate Facility.** An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**Adult Foster Care Family Home.** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for twenty-four (24) hours a day for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

**Adult Foster Care Large Group Home.** An adult foster care facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

**Adult Foster Care Small Group Home.** An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.

**Adult Use.** Any commercial or recreational establishment that at all times excludes minors by virtue of age, including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, or eating and drinking places with sexually oriented entertainment.

**Agriculture.** The use of any land or building for the purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops and animal husbandry. For the purposes of this Ordinance, the term agriculture shall include the use of farm laborers, packing and trucking of agricultural products, and the storage and application of fertilizers, pesticides and other agricultural inputs, provided that such are incidental to the primary agricultural use. The term agriculture shall not include the keeping or raising of fur bearing animals, stables, kennels, game fish hatcheries or mining. The term shall also not include the disposal of garbage, refuse, offal or rendering plants; the slaughtering of animals.

**Alley.** A right-of-way that affords only a secondary means of access to adjacent property.

**Alterations, Structural.** Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building.

**Animal Unit.** The equivalent of one (1) slaughter or feeder cattle, based on comparative effluent impacts, as defined in GAAMPS promulgated by the Michigan Department of Agriculture. Any animal that is not defined in the GAAMPS, but defined in the Michigan Right to Farm Act or the Michigan Department of Agriculture Policy, is to be calculated at one thousand pounds (1,000) live weight equals one animal unit.

**Animal, Wild or Exotic.** Any animal not domesticated by humans or any animal which a person is prohibited from possessing or housing by law, statute or ordinance. Wild or exotic animals shall include, but shall not be limited to, the following: alligator and crocodile (family); deer (family); opossum (family); badger; wild dog or wolf (family); primate excluding humans (family); bear; raccoon; ferret; skunk; wild cat (family); lemur; spider (poisonous); coyote; lizard, snake, and other reptile (poisonous); weasel (family); wild boar or swine (family); and marten.

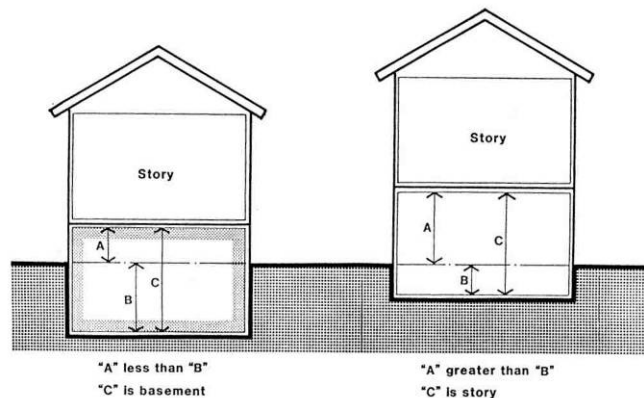
**Animal Uses.** Agricultural operations primarily involving the breeding and raising of farm animals for a commercial purpose. Recreational or hobby farms with more than three (3) animals per occupant shall be considered animal uses as well.

**Apartment.** (See dwelling unit, multi-family)

**Automobile Repair – Major.** General repair, rebuilding, or reconditioning of engines, or vehicles, collisions service (including body repair and frame straightening), painting or upholstering; or vehicle steam cleaning and undercoating.

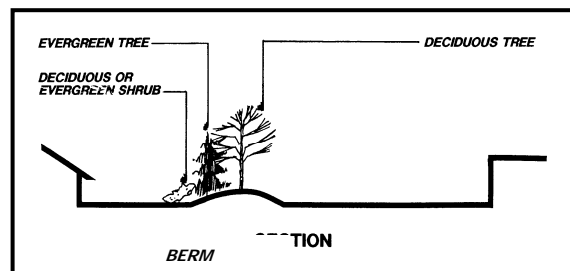
**Automobile Repair – Minor.** Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two (2) tons capacity; provided, however, there is excluded any repair or work included in the definition of “Automobile Repair – Major”.

**Basement.** A portion of a building located partially below grade where the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story for height measurement. (See Story)



**Bed and Breakfast Inn.** An owner-occupied single-family residence providing lodging rooms, and typically breakfast as well, for a limited number of guests on a temporary basis in return for payment.

**Berm.** A mound of soil graded, shaped and improved with landscaping in such a fashion so as to be utilized for screening purposes.



**Block.** The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, crossing or terminating, between the nearest such street or un-subdivided acreage, railroad right-of-way, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

**Board of Appeals.** The Royalton Township Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 110 of 2006, as amended.

**Boat Dock.** A pier extending into the water, which allows the free flow of water underneath it, for the purposes of parking and accessing boats.

**Boat Lift.** A device referred to as a hoist, davits, etc., that may be used to raise boats or cargo. Boat lifts used for personal watercraft and recreational boats are sometimes referred to as “shore stations.”

**Boat Pier.** See Pier.

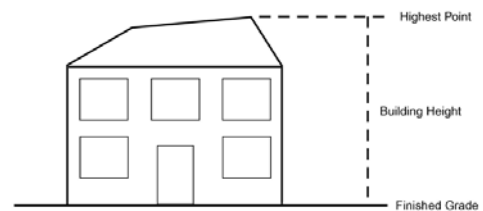
**Boat Well.** A man-made slip, which encroaches into the waterfront yard, for the purposes of storing boats.

**Buffer Area.** An area or strip of land, usually landscaped, intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**Buildable Area.** The area of a lot exclusive of the required yard areas.

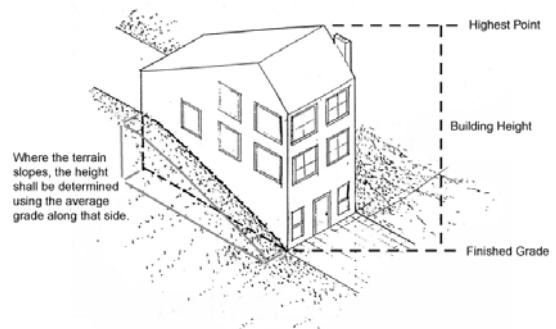
**Build to Line.** An alignment established a certain distance from the front property line to a line along which the building shall be built. Certain projections shall be exempt for build to line requirements.

**Building.** A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, chattels, materials, property, equipment or similar items. This shall include tents, awnings, or vehicles situated on private property and used for purposes of a building. A building shall not include such structures as signs, fences, or smokestacks, but shall include structures such as storage tanks, grain elevators, and sheds.



**Building, Main or Principal.** A building in which the principal use of the lot is conducted.

**Building Height.** The vertical distance measured from the finished grade to the highest point on the roof. The final building height shall be the largest of the measurements taken from each side of the building. Where a building is located on sloping terrain, the height shall be computed using the average grade for that side of the building.



**Building Official.** The officer or other authority designated by the Township Board to administer and enforce the Building Code. In the case of Royalton Township, the Township Building Inspector is the designated Building Official for the Township.

**Building Permit.** A building permit is the written authority issued by the Royalton Township Building Official permitting the construction, removal, repair, moving, alteration or use of building in conformity with the provisions of this Ordinance.

**Building Setback Line.** A line parallel to a street right-of-way, private road easement, edge of a stream or lake, or other property line established on a parcel of land or lot for the purpose of prohibiting construction of a building or structure in the area between such building line and right-of-way, easement, water body, or other property line.

**Caliper.** The diameter of a tree trunk measured 18 inches above the ground level. The caliper of a multiple-trunk tree is determined by the full caliper of the largest trunk plus half the caliper of the other trunks.

**Care Facility.** An institutional use of a building or property whereby a publicly or privately funded program enables persons to receive medical, psychological, emotional or other rehabilitative care as an out-patient or live-in patient. This definition does not include those institutional uses provided for elsewhere in this Ordinance, nor does it include foster care programs or homes.

**Caretaker Living Quarters.** An independent residential dwelling unit designed for and occupied by one or two persons, of which at least one is employed to look after goods, buildings or property on the parcel on which the living quarters are located.

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

**Certificate of Occupancy.** A certificate issued by the Building Official, after final inspections, indicating that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a zoning permit has been issued shall be occupied until the Building Official has, after final inspection, issued a Certificate of Occupancy (C of O). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance.

**Child Care Organization.** A governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. These facilities care for children under the age of eighteen (18) years of age, and are licensed and regulated by the State under Public Act 116 of 1973, as amended, or Public Act 218 of 1979, as amended, and the associated rules promulgated by the State Department of Consumer and Industry Services. Such care organizations are classified below:

**Child Caring Institution.** A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a twenty-four (24) hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or an adult foster care facility in which a child has been placed.

**Child Day Care Center.** A facility, other than a private residence, receiving one (1) or more preschool or school age children for group day care for periods of less than twenty four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. This facility is also described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

**Family Child Day Care Home.** A private home, as licensed by the State of Michigan, in which up to six (6) minor children are received for care and supervision for periods of less than twenty four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

**Foster Family Home.** A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

**Foster Family Group Home.** A private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

**Group Child Day Care Home.** A private home, as licensed by the State of Michigan, in which up to twelve (12) children are given care and supervision for periods of less than twenty four (24) hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption.

**Church. (Including, Temple, Place of Worship, or Religious Institution).** A religious institution, or a site used for the regular assembly of persons, for the conducting of religious services, and for related accessory uses, including offices and living quarters for church ministry and other members of the religious order who carry out their duties primarily on the site,

religious education classes, day care and limited recreation facilities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

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

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

**Club, Health.** Any establishment providing physical or health services, including health clubs, racquet clubs, reducing salons or tanning salons.

**Club or Lodge, Private.** A non-profit association of persons who are bona fide dues paying members and own or lease premises the use of which is restricted to the members and their guests. The facilities owned or used by such organization may be referred to as a “club” or “lodge” in this Ordinance.

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

**Semi-trailer.** A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone, including trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies and full or partial box-type enclosures, any of which above units exceeds twelve (12) feet in height.

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

**Other Commercial Vehicles.** Any truck or motor vehicle with a cab and chassis with a stake, rack, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof by more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. This term does not include motor homes or recreational vehicles, but does include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment and similar vehicles.

**Community Center.** A building dedicated to social or recreational activities, serving the Township or a neighborhood and owned and operated by the Royalton Township, or by a non-profit organization dedicated to promoting the health, safety, morals or general welfare of the Township.

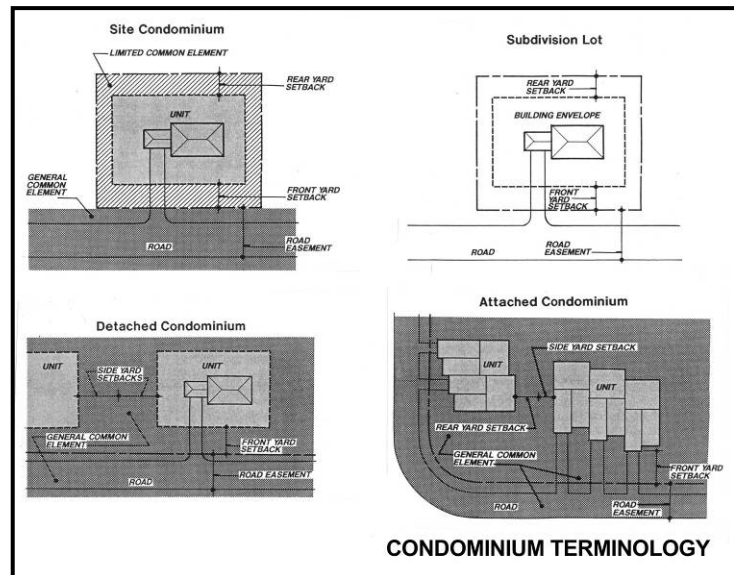
**Communication Tower.** See Wireless Communication Tower

**Composting Center.** Composting is the biological decomposition of organic matter under controlled conditions that are characterized by aerobic, elongated piles (windrows) that generate heat. A composting center is a location where organic matters is collected and delivered from off-site, thereby allowing for large-scale composting involving various composting technologies.

**Condominium.** A condominium is a system of separate ownership of individual units and/or multiple-unit projects according to the state Condominium Act, Public Act 59 of 1978, as amended (MCL 559.101 et seq.).

**Site Condominium.** All allocation, division, or development of land permitted under the State of Michigan Condominium Act, Act 59 of 1978 as amended, which permits single family detached housing pursuant to a master deed.

**Condominium Master Deed.** The condominium document recording the condominium project as approved by the Township including attached exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.



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

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

**Condominium Unit Site.** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot” for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage and maximum floor area ratio. Condominium setbacks shall be measured as described below:

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

**Contractor Yard.** A facility and storage yard for the storage of vehicles and materials for contractors in addition to offices for the operation of the business use.

**Convalescent or Nursing Home.** A home for the care of children, the aged or the infirm, or a place of rest for persons suffering serious bodily disorders, wherein two (2) or more persons are cared for. Such home shall also conform to and qualify for a license under applicable State laws (Public Act 139 of 1956, as amended).

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

**Corner Clearance Area.** A triangular area, formed at an intersection of any two street rights-of-way by a straight line drawn from one right-of-way line to the other at a distance along each line of ten (10) feet from their intersection point.

**Deck.** An unroofed platform having an elevation greater than nine (9) inches above the existing elevation, typically attached to a building and used for outdoor leisure activities.

**Demolition.** An act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

**Density.** The number of dwelling units situated on or to be developed per net or gross acre of n land.

**Detention basin.** A depression designed for holding storm water runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle.

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



**Development Plan.** The comprehensive plan, also known as the Master Plan, including graphic and written proposals indicating the development goals and objectives, the planned future use of all land within the Royalton Township, as well as the general location for all physical development of the Township. The Plan includes any unit or part of the plan, and any amendment.

**District.** A portion of Royalton Township within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under this Ordinance. This term is synonymous with the term “zone” or “zoning district.”

**Driveway.** A drive, path, trail or similar way extending from a public road or a private road to a single building, dwelling, lot or structure intended to provide ingress and egress for that building, dwelling, lot or structure

**Dumpster.** A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

**Dumpster Enclosure.** Any exterior space that secures or screens containers, structures, or other receptacles intended for temporary storage of solid waste materials.

**Dwelling or Dwelling Unit.** A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, cooking, eating, and sanitation. Each dwelling unit shall contain its own sanitary and kitchen facilities.

**Accessory Apartment.** A dwelling for one (1) family located within a primary building occupied by a permitted use in the district, with separate and individual kitchen, bath, and toilet facilities, and a separate and distinct private entrance (i.e. “mother-in-law” apartment).

**Efficiency Apartment.** A dwelling unit with a bathroom and principal kitchen facilities designed as a self contained unit for living, cooking, and sleeping purposes, and having no separate designated entrance.

**Manufactured Dwelling.** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. Section 5401, as amended;
- The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities;
- The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

**Mobile Home.** A mobile home is a type of manufactured dwelling, which is defined as a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. For the purposes of this Ordinance, a manufactured home shall not include motor homes, house trailer, recreational vehicles, trailer coach, or travel trailers.

**Multiple Family Building.** A building divided into apartments, townhouses, or stacked flats and designed for residential occupancy by three (3) or more families and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for three (3) or more families with each floor having two (2) means of egress, exclusive of an elevator.

**Single-Family Dwelling.** A building designed exclusively for residential occupancy by not more than one family.

**Townhouse.** A dwelling in a multiple-family building that is divided from the dwelling adjacent to it by a party wall extending the full height of the building with no visible separation between walls or roof. Each townhouse dwelling shall be capable of individual use and maintenance without trespassing upon adjoining dwellings, and access, utilities, and service facilities shall be independent for each dwelling.

**Two-Family (Duplex) Dwelling.** A building designed exclusively for residential occupancy by two (2) families.

**Easement.** A grant of one (1) or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

**EIFS.** Exterior Insulated Finish Systems; a popular building material with a stucco-like appearance.

**Essential Services.** The erection, construction, alteration, or maintenance by public utilities, quasi public utilities, municipal departments or Township certified cable television companies of underground, surface, or overhead gas, electrical, steam, fuel, or water systems for the purpose of transmission, distribution, collection, communication, supply, or disposal systems therewith that are reasonably necessary for the furnishing of adequate service for the general health, safety, and welfare. Poles, wires, mains, drains, sewers, pipes, conduits, transformers, splice boxes, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants, or similar equipment and accessories associated with an essential service shall be considered essential services under this ordinance. Essential services, however, shall not include storage yards, sales or business offices, or commercial buildings and activities. Wireless communication towers or antennas, utility buildings and storage yards shall not be considered essential services under this Ordinance.

**Excavation.** Any breaking of ground, except common household gardening and ground care.

**Family.** A family shall be defined as either of the following:

- An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children or servants of the principal occupants, with not more than two (2) additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuous, non-transient, domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable periods.

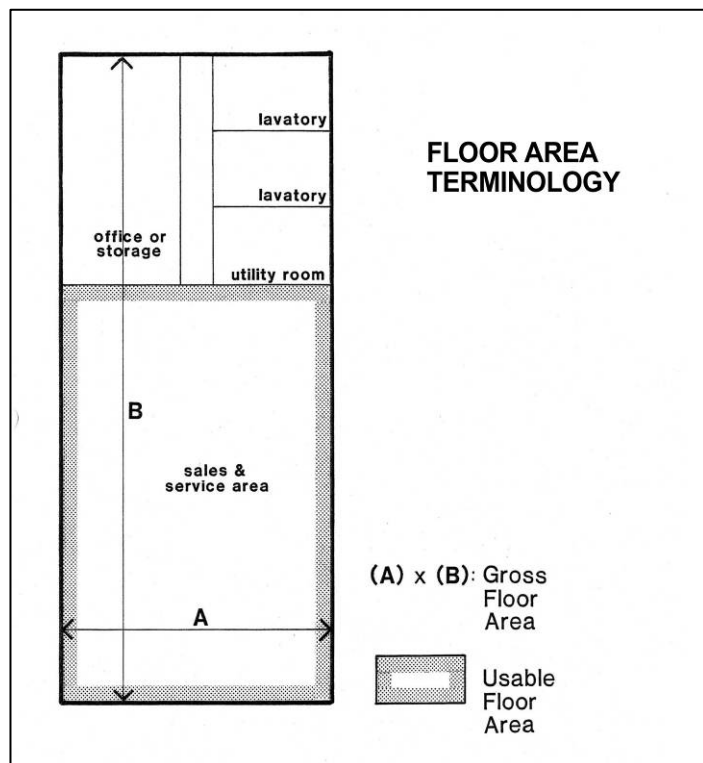
**Farm.** Lands and buildings used for commercial cultivation, tilling, or use of land for the purpose of growing crops or raising livestock.

**Fence.** Any permanent partition, wall, fence, structure, or gate erected as a dividing structure, barrier or enclosure.

**Filling.** Filling shall mean the depositing or dumping of any matter onto, or into the ground, except common household gardening and general farm care.

**Floor Area.** The total area of a building measured by taking the outside dimensions of the building at each floor level. The floor area shall exclude non-habitable spaces, specifically unfinished basements, attics, garages or unenclosed porches.

**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.



**Floor Area, Residential.** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior surfaces of the exterior walls or from the centerline of walls separating two (2) dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches that are not a part of a home's climate control system. However, it may include a lower level if that lower level exits directly out at grade level along at least one side, and the lower level is finished and has a controlled climate.

**Floor Area, Net or Usable** Eighty percent (80) of the gross floor area of a building, or that portion of the building area, measured from the interior face of the exterior walls, intended for services to the public or to customers, patrons, clients, or patients. Areas intended for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities shall be excluded unless they serve as the primary use or function of the building or structure. (see illustration)

**Frontage.** For purposes of street or road frontage, that portion of a lot which fronts and abuts a lawful road or street. For purposes of lake, stream, or other water frontage, that portion of a lot which fronts and abuts the lake, stream or other body of water.

**Future Land Use Map.** The map or graphical depiction adopted as part .of the Township Development Plan that shows the long-range desired use of land within the Township.

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

**Garage, Public.** A building used for commercial storage of vehicles.

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

**Gas Station.** A place used for the retail sale and dispensing of motor vehicle fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles.

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

**Grade.** A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. 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/dwelling.

**Grade, Average.** The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure on a particular side of that structure determined for purposes of measuring building height.

**Grade, Finished.** The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

**Greenbelt.** A strip of land, not less than five (5) feet in width, which is planted with trees or shrubs in compliance with the requirements of this Ordinance.

**Gross Floor Area.** See Floor Area, Gross.

**Hazardous Substance.** Pursuant to Michigan Public Act 451 of 1994, as amended, A hazardous substance shall include one (1) or more of the following, but not including fruit, vegetable, or field crop residuals or processing by-products, or aquatic plants, that are applied to the land for an agricultural use or for use as an animal feed, if the use is consistent with generally accepted agricultural management practices developed pursuant to the Michigan Right to Farm Act, Act No. 93 of the Public Acts of 1981, as amended, being sections 286.471 to 286.474 of the Michigan Compiled Laws:

- Any substance that is demonstrated, on a case by case basis, to pose an unacceptable risk to the public health, safety, or welfare, or the environment, considering the fate of the material, dose-response, toxicity, or adverse impact on natural resources.
- A Hazardous substance as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767.
- A Hazardous waste as defined in Chapter 3, Part 111, of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws.
- A Petroleum as defined in Chapter 8, Parts 211 and 213, of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, being sections 324.21101 to 324.2121331 of the Michigan Compiled Laws.

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

**Hotel.** One or more buildings containing individual living or sleeping units specially designed as temporary quarters for transient guests, including provisions for meals and personal services. This definition shall include hotels, extended stay hotels, motels and inns.

**Intensive Farming Operation.** A concentrated livestock or poultry breeding, raising, holding, boarding or feeding operation or business which includes more than any of the following total number of farm animals: not less than seven hundred fifty (750) dairy cattle (all classes), seven hundred fifty (750) slaughter or feed cattle, one thousand eight hundred (1,800) swine (all classes), one hundred thousand (100,000) poultry (all classes), five thousand (5,000) sheep or goats (all classes), or two hundred (200) horses (all classes).

**Junk Yard or Motor Vehicle Storage or Dismantling Yard.** An open area where waste, used, or secondhand material is bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper rags, rubber tires, and bottles. A “junk yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping, or abandonment of junk but does not include uses established entirely within enclosed buildings. The term “junk yard” does not include drop-off stations for residential recyclables or donations.

**Kennel.** A kennel shall be either of the following:

- Any building, lot or premises where four (4) or more dogs and/or cats (at least eight weeks of age) are kept. This shall not include residentially zoned premises or premises which are used for residential purposes, at which the occupant is keeping his or her own dogs or cats; or
- Any building, lot, or premises where dogs or cats are kept or housed, for which remuneration is received.

**Laboratory.** A place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

**Lake.** Any body of water, natural or artificial, defined as “an inland lake or stream” in the Inland Lake and Stream Act, PA 451 of 1994, as amended.

**Land Division.** The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development, which partition or splitting results in one (1) or more parcels of less than 40 acres of the equivalent, and satisfies the requirements of Sections 108 and 109 of the Land Division Act, PA 288 of 1967, as amended, as well as satisfying Royalton Township’s Land Division and Lot Splitting Ordinances, where applicable.

**Landfill.** A tract of land that is used to collect and dispose of “solid waste” as defined and regulated in Michigan Public Act 641 of 1979, as amended.

**Landmark.** A structure or property which is of value in preserving the historical, cultural, architectural or archeological heritage, or an outstanding example of design or a site closely related to an important personage, act or event in history, including but not limited to those buildings, structures, or property recognized by the Berrien County Historical Association, the State Preservation Office, or the Michigan Historical Center.

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

**Livestock.** Horses, cattle, sheep, goats, chickens, and other domestic animals normally kept or raised as part of an agricultural operation.

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

**Lot.** A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat. For the purposes of this Ordinance, “lot” shall also refer to “parcel” and “condominium unit site”.

**Corner Lot.** A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, where any two (2) chords of which form an angle of one hundred thirty-five (135) degrees or less.

**Double Frontage Lot.** A lot other than a corner lot having frontage on two (2) more or less parallel streets.

**Lot, Adjacent.** Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

**Lot, Contiguous.** Lots that share a common property line.

**Waterfront Lot.** A lot adjoining a body of water, such as a lake, river, or canal. For waterfront lots, the waterfront property line shall be the ordinary high water mark.

**Lot Area.** The total area within the lot lines, excluding road right-of-way or private street easements.

**Lot Coverage.** A ratio, expressed as a percentage, of the lot area covered or occupied by buildings or structures to the net lot area of the zoning lot.

**Lot Depth.** The mean horizontal distance measured from the front street right-of-way line to the rear lot line.

**Lot Line.** Any line dividing one lot from another lot, or from a street right-of-way or from any public place. Specifically:

**Front Lot Line.** The line separating a lot from a street right-of-way or easement boundary. On a corner lot, both street frontages shall be considered front lot lines.

**Rear Lot Line.** The boundary that is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an assumed line parallel to the front lot line not less than ten feet (10') long lying farthest from the front lot line and wholly within the lot. In any case, when this definition does not apply, the Planning Commission shall designate the rear lot line. On a corner lot, the rear lot line shall be opposite the narrower of the two (2) street frontages (and the side lot line shall be opposite the wider of the two).

**Side Lot Line.** Any lot line not a front lot line or a rear lot line.

**Lot of Record.** A parcel of land or a lot, the dimensions and legal description of which are shown on a document or map on file with the Berrien County Register of Deeds and with the Township, which actually exists as shown and was lawful (and of record with the Berrien County Register of Deeds) when created, or any part of such parcel or lot held in a record ownership separate from that of the remainder thereof.

**Lot Width.** The horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required front setback.

**Manufactured Home.** See Dwelling, Manufactured.

**Manufactured Housing Park.** A parcel or tract of land under the control of a person upon which three (3) or more mobile 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 or mobile home, subject to the rules and requirements of the Mobile Home Commission Act, Public Act 96, of 1987, as amended (MCLA 139.2301 et seq.) and the Manufactured Housing Commission General Rules.

**Marquee.** A structure of a permanent nature projecting from the wall of a building.

**Massage Therapist.** An individual specifically trained and certified in therapeutic massage by a recognized association or school accredited by the American Massage Therapy Association, the



Commission on Massage Thereapy Accreditation, or the International Myomassethics Federation.

**MDEQ.** Michigan Department of Environmental Quality.

**Mezzanine.** An intermediate or fractional story between the floor and ceiling of any story occupying not more than one-third (1/3) of the floor area of such story.

**Mining.** The development or extraction of one or more minerals, including topsoil, sand and gravel, from its natural occurrence on or in land or waters. The term mining shall not apply to on-site activities of a fully permitted of lawful construction project.

**Mixed Use.** A structure or project containing residential and nonresidential uses.

**Mobile Home.** See Dwelling, Mobile Home.

**Mortuary or Funeral Home.** An establishment where the deceased persons are prepared for burial or cremation and where funerals may be held.

**Motel.** One or more buildings occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through exterior entrances, and in which provision is not made for cooking in the individual units.

**Motor Vehicle.** Any self-propelled vehicle that is subject to registration under the Michigan Vehicle Code.

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

**New Construction.** Structures for which the “start of construction” commenced on or after the effective date of this Ordinance.

**Nonconforming Lot.** A lot or record that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, or prior to a recorded lot split or land division by the property owner, and that does not now conform to this Ordinance pertaining to lots in the zoning district in which it is located and/or Royalton Township’s Land Division or Lot Splitting Ordinances.

**Nonconforming Structure.** A building or structure or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and that does not now conform to this Ordinance pertaining to buildings in the zoning district in which it is located.

**Nonconforming Use.** A use that lawfully occupied a parcel or contiguous parcels of land or structure and land in combination at the effective date of this Ordinance, or amendments thereto,

that does not conform to the use regulations of the district in which it is located, or does not have special approval where provisions of this Ordinance require such approval.

**Nonconformity.** Any structure, lot or use of any lot, land or structure which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and that does not now conform to the regulations for the zoning district in which it is located or other provisions of this Ordinance.

**Noxious.** An element creating an unhealthy or harmful interference with the enjoyment and use of property, including smoke, odors, noise, vibration, glare or heat.

**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.

**Occupancy, Change of.** The term “change of occupancy” shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or the expansion of a use.

**Office.** A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

**Offset.** The distance between the centerlines of driveways or streets across the street from one another.

**Oil or Gas Processing Plant.** A facility designed for separating, metering, holding and marketing of oil and gas production, including sweetening plants designed for the removal of sulfur compounds from natural gas, but not including oil refineries.

**Open Air Business.** Any business in which any portion of the business operations or any activity or operation, including but not limited to production, storage or sales, is conducted outside of a fully enclosed structure.

**Open Space.** Land set aside within a development to be preserved in an open state, including but not limited to natural undeveloped land, parks, outdoor soccer fields, outdoor tennis courts, and similar outdoor recreational areas, as herein defined, and not otherwise prohibited. Care and protection of the open space is the responsibility of the owner if privately held, the neighborhood association if privately held by a community, or by the Township if publicly held.

**Open Space Preservation Development.** A technique intended to preserve the Rural Open Space Environment by grouping or clustering dwellings on some portions of the development site in order to preserve the at least fifty (50) percent of the site as permanent open space in a natural state or for continued agricultural use.

**Open Storage.** Any outdoor storage of any goods, junk, materials, merchandise or vehicles for more than 24 hours. Outdoor storage of building materials, sand, gravel, stone, lumber, equipment or other supplies constitutes open storage.

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

**Overlay District.** An area where certain additional standards or requirements are superimposed upon the underlying zoning district to further a stated intent.

**Parapet Wall.** An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment and provide fire protection.

**Parking Facility, Off-Street.** An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

**Parking Space.** A space set aside for the sole purpose of parking an automobile on a temporary basis.

**Patio.** A platform or terrace commonly made of concrete, brick, stone, or other pavement material, which is typically attached to the house and used for outdoor activities having an elevation of no more than nine (9) inches over the existing grade.

**Pavement or Hard Surface.** Plant-mixed bituminous material, concrete, and brick or masonry pavers meeting the construction specifications of Royalton Township.

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

**Pier.** A structure extending outward from the shore line for use as a promenade or to secure and provide access to watercraft.

**Pile, Spring, or Mooring.** A column of timber, steel, or concrete driven into the ground below the water to tie off or otherwise moor a boat or other watercraft.

**Planned Unit Development.** A form of comprehensively planned land development which permits flexibility in site design, arrangement and types of permitted uses.

**Planning Commission.** The Royalton Township Planning Commission.

**Plat.** A map of a subdivision of land.

**Plat, Subdivision.** The division of a tract of land for the purpose of sale, lease or building development, in accordance with the Land Division Act, Michigan Public Act 288 of 1967, as amended, or any successor thereto, and subdivision control regulations as may be adopted by the Township.

**Plot Plan.** A drawing of a proposed development of a site required to be submitted for a zoning permit for applications that do not require a site plan. The Plot Plan shall provide sufficient information as required by this Ordinance to demonstrate regulatory compliance and the intent of the development.

**Porch.** An exterior appendage to a building that has a separate roof, or a roof integral with the building, which roof forms a covered approach to a doorway or vestibule. An enclosed porch is considered part of the main building and must conform to the setback requirements of the Ordinance..

**Primary Use.** See Use, Primary.

**Principal Use.** See Use, Principal.

**Public or Private Utility.** A person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing, under federal, state or municipal regulations or franchise agreements, to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water. Wireless communications towers or antennas shall not be considered public or private utilities under this Ordinance.

**Recreational Vehicle.** "Recreation Vehicles" shall include the following:

**Boat.** A watercraft (including, but not limited to any vessel, ship, motorboat, sailboat, barge, scow, tugboat or rowboat) which is any one of the following:

- Greater than 12 feet in length,
- Having a motor or engine of more than five (5) horsepower,
- Used for rental or other commercial purposes, or
- Registered or required to be registered with the Michigan Department of State.

**Camper Trailer (pop-up).** A canvas folding structure mounted on wheels and designed for travel and vacation use

**Motor Home.** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted on a chassis with wheels and capable of being moved place to

place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

**Personal Watercraft.** A vessel that meets all of the following requirements:

- Uses a motor driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion,
- Is designed without an open load carrying area that would retain water,
- Is designed to be operated by one (1) or more persons positioned on, rather than within, the confines of the hull, and
- Is registered or required to be registered with the Michigan Department of State.

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

**Other Recreational Equipment.** Other recreational equipment includes snowmobiles, all-terrain or special terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.

**Restaurant.** Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-eat state. However, any such establishment in which more than fifty (50%) of the gross floor area is designated for the sale of alcoholic beverages (only secondary sale of food) shall be deemed to be a “bar” for the purposes of this Ordinance.

**Restaurant, Drive-Through.** A drive through restaurant is a restaurant that may or may not have indoor seating and whose method of operation allows the delivery of prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off premises.

**Restaurant, Sit-down.** A standard restaurant is a restaurant whose method of operation involves either:

- Delivery of prepared food by waiter/waitresses to customers seated at tables within a completely enclosed building, or
- Prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

**Bar/Lounge.** A bar or lounge is an establishment operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If an establishment includes a bar or lounge and a separate dining facility, the

establishment shall be considered a bar/lounge if more than 50 percent of the usable floor area of the entire establishment is used for the bar/lounge.

**Retail Stores and Retail Sales.** A showroom, sales floor, display area or similar facility for the selling, trading and exchanging of goods, wares, or merchandise for direct consumption (not for resale) directly to the consumer and completely within an enclosed building.

**Retaining Wall.** A permanent, solid barrier of brick, stone or similar material approved by the Royalton Township, intended to support earth at a steep grade. All supporting members, posts, stringers, braces, pilasters or other construction features shall be located and placed on the inside of the wall away from public view, and all visible exterior surfaces shall be constructed, painted, tinted or colored. No signs shall be placed, affixed, painted or designed on retaining walls.

**Right-Of-Way.** A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles or placement of public and semi-public utilities and under the legal authority of the agency having jurisdiction over the right-of-way.

**Road.** 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 thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation.

**Private Road.** Any road which is to be privately maintained and has not been accepted for maintenance by the Berrien County Road Commission, the State of Michigan or the federal government, but which is subject to approval by the Township.

**Public Road.** Any road or portion of a road which has been dedicated to and accepted for maintenance by the Berrien County Road Commission, State of Michigan or the federal government.

**Roadside Stand.** A building or structure designed or used for the display and/or sale of agricultural products produced on the premises upon which the stand is located.

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

**Senior Housing.** An institution other than a hospital, hotel, or motel, which provides room and board to non-transient persons primarily sixty (60) years of age or older. Housing for the elderly may include:

**Assisted Living Facility.** A facility providing responsible adult supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.

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

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

**Elderly Housing Complex.** A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years of age or older or couples where either the husband or wife is sixty (60) years of age or older.

**Senior Apartments.** Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.

**Setback.** The minimum horizontal distance between a front, rear, or side lot line and the nearest supporting member of a structure required to comply with required yard provisions of this Ordinance.

**Shopping Center.** A group of commercial retail establishments, planned, developed, owned and managed as a unit, and related in location, size and type of shops to the trade area it serves.

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

**Signs.** Any visual or graphic device that is designed to or capable of visually conveying a message from a property or building to another property or to a public or private right of way or to a public or private lake or other watercourse. The term "sign" includes the sign structure, supports, braces, guys and anchors.

**Site Plan.** A scaled drawing illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with this Ordinance and the Code of Ordinances.

**Special Use Permit.** An authorization by the Township Board or Planning Commission specified herein to use a parcel of land and/or structure for a special land use.

**Stable, Commercial.** A structure in which livestock used for pleasure riding or driving are housed or kept for hire, including a riding track.

**Stable, Private.** Space in a principal building or an accessory building on the same lot used for stabling of livestock owned by the occupants, exclusively as an accessory use.

**State Licensed Residential Facility.** A structure constructed for residential purposes that is licensed by the state pursuant to the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, as amended (MCLA 400.701 et seq.), or the Child Care Organizations Act, Public Act 116 of 1973, as amended (MCLA 722.111 et seq.), which facility provides resident services and twenty-four (24) hour supervision or care for six (6) or fewer persons in need of supervision or care.

**Steep Slopes.** Slopes with a grade of twelve percent (12%) or more.

**Story.** That part of a building, other than a mezzanine, included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. Specifically:

**Basement.** (See Basement.) A basement shall be considered a story. A story if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for dwelling purposes.

**First Story.** The highest story having its interior floor surface not more than four feet above the curb level, or the average elevation of the finished grade along the front of the building were it set back from the street.

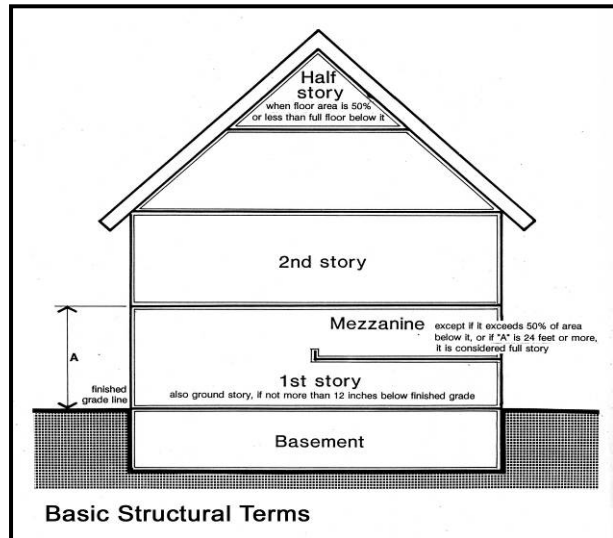
**Half-story.** That part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half (1/2) of the floor area of such full story, provided the area contains at least two-hundred (200) square feet, with a clear height of at least seven (7) feet six (6) inches.

**Mezzanine.** A full story when it covers more than fifty percent (50%) of the area of the story underneath such mezzanine or if the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.

**Top Story Attic.** A half story when the main line of the eaves is not above the middle of the interior height of said story.

**Street.** A public or private thoroughfare or way, other than public alley, which affords principal means of access to adjacent property.

**Street Right-of-Way Line.** The dividing line between the street and a lot.





**Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, fences which are more than 50% solid, radio or communication towers, sheds, signs and storage bins, but excluding sidewalks and paving on streets, driveways, parking areas and patios.

**Swimming Pool.** Any structure or container located above or below grade designed to hold water to a depth of greater than twenty-four (24) inches and intended for swimming or bathing. A swimming pool shall be considered an accessory building for the purpose of determining required yard spaces and maximum lot coverage.

**Temporary Building.** A structure permitted to exist for a temporary period as permitted by this Ordinance.

**Theater, Indoor.** Any building used for the presentation of dramatic shows, movies or other entertainment which has a roof completely sheltering actors, the screen, and/or patrons and which is open to the public with or without charge.

**Theater, Outdoor.** Any place for the presentation of dramatic shows, movies or other entertainment open to the public with or without charge other than indoor theaters.

**Township Board.** The Royalton Township Board of Trustees.

**Township.** Royalton Township, Berrien County, Michigan.

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

**Accessory Use.** A use naturally and normally incidental to, subordinate to, and devoted exclusively to the primary use or building of the premises.

**Permitted Use.** A use permitted in each zoning district by right subject to site plan review approval.

**Primary Use.** The main use to which the premises are devoted, and the main purpose for which the premises exist.

**Principal Use.** An activity permitted by right in the district, subject to the requirements and standards of this Ordinance.

**Seasonal Use.** A temporary use permitted and regulated pursuant to this ordinance for a limited period of time conducted every year at the same time of year, such as, but not limited to, the sale of Easter flowers and Christmas trees.

**Special Land Use.** An activity that may be detrimental to other land uses permitted within the same district, but may be permitted subject to certain conditions or limitations designed to insure that the use is compatible with other permitted uses in the district.

**Temporary Use.** A use permitted and regulated pursuant to this Ordinance for periods of time that are limited in duration as specified by this Ordinance, including, but not limited to carnivals, circuses, farmers market, art fairs, craft shows, sidewalk sales, antique sales, Christmas tree sales, flower sales, flea markets, and similar events.

**Undeveloped State.** A natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use of 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. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

**Usable Floor Area.** See Floor Area, Usable.

**Variance.** A modification of the literal provisions of this Ordinance granted by the Zoning Board of Appeals.

**Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

**Veterinary Clinic or Hospital.** An office of a duly licensed veterinary professional for diagnosis, treatment, surgery and other veterinary care of domestic animals, horses, livestock and other animals.

**Walls.** A screening structure of definite height and location constructed of masonry, concrete, rock, face brick, stone, decorative block, or similar material, and subject to Township regulations herein.

**Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the land surface or the land is saturated with or covered by water. Some wetland areas are more commonly referred to as bogs, swamps, or marshlands. Wetlands shall also have one (1) or more of the following attributes:

- At least periodically, the land supports predominantly hydrophytes.
- The substrate is predominantly un-drained hydric soil.
- The substrate is saturated with water, or covered by shallow water at some time during the growing season of each year.

**Wetland, Regulated.** Certain wetlands as regulated by the Michigan Department of Environmental Quality (MDEQ) under the provisions of Public Act 203 of 1979, as amended that have any of the following characteristics:

- Contiguous to an inland lake, pond, river or stream;
- Not contiguous to an inland lake, pond, river or stream, and more than five (5) acres in size;
- Other wetlands where the MDEQ determines, with notification to the property owner, that protection is essential to preserve natural resources of the state from pollution, impairment or destruction.

**Wireless Communications Facility.** All structures, equipment and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals.

**Abandoned Tower or Antenna.** An antenna that is not operated for a continuous period of twelve months, or a tower constructed or maintained without an operational antenna shall be considered abandoned.

**Alternative Tower Structure.** Man-made trees, clock towers, bell steeples, utility poles, flagpoles and similar decorative structures that camouflage or conceal the presence of antennas or towers.

**Amateur Radio Communications Antenna.** An antenna and associated support structure that is owned and operated by a federally licensed amateur radio station operator for personal use.

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

**Backhaul Network.** The lines that connect a provider's towers or antennas to one or more switching offices, long-distance providers or public-switched telephone network.

**Co-Location.** The location of two (2) or more wireless telecommunication facilities on a common structure, tower or building.

**Equipment Enclosure.** A dedicated and secured area for the placement of accessory structures and equipment associated with a wireless communications facility.

**Satellite Dish.** An antenna designed to receive from or transmit to orbiting satellites.

**Tower.** A structure, and any support thereto, designed primarily for the purpose of supporting one or more antennas for wireless communication purposes, including, but not limited to monopoles, lattice towers, light poles, wood poles and guyed towers and other structures.

**Yard.** An open space of prescribed width or depth on the same zoning lot with a building or group of buildings between the building or group of buildings and the nearest lot line, and is unoccupied from the ground upward except as otherwise provided herein.

**Front Yard.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between any front lot line or street right-of-way and the nearest point of the primary building or the building setback line, whichever is further. On a corner lot, each street frontage shall be considered a front yard.

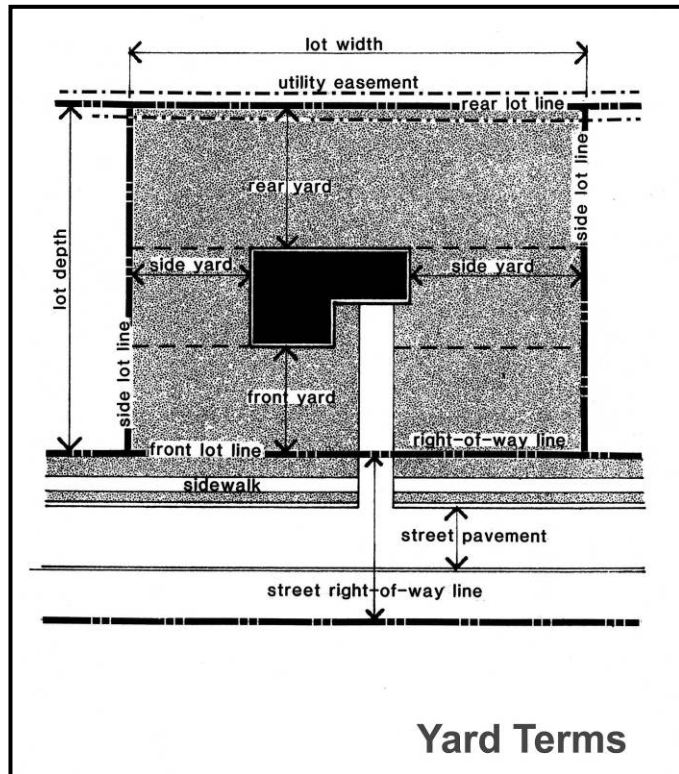
**Rear Yard.** An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the primary building.

**Required Yard.** An open space or yard area that conforms to the requirements of this Ordinance for yard, setback or other open space requirements.

**Side Yard.** An open space extending from the front yard to the rear yard on the side of the primary building between the building and the side lot line, the width of which is the minimum horizontal distance between the side lot line and the nearest point of the main building.

**Zoning Act.** Michigan Zoning Enabling Act (MZEA), Michigan Public Act 110 of 2006, as amended.

**Zoning Administrator.** The administrative official designated by the Township Board with the responsibilities of administering and enforcing this Ordinance.



**Zoning Map.** A graphical depiction of the existing zoning districts or designation within the Township.

**Zoning Permit.** A zoning permit is consent granted by the Township which is required for any change in land use or change in building use or for the construction, placement or erection of any building or structure whether or not a building permit is required. All requirements must be met before a Building permit application and/or electrical permit application will be given to the property owner.

## **CHAPTER 3 ZONING DISTRICTS**

### **Section 3.01 Zoning Districts**

Royalton Township is hereby divided into the following Zoning Districts:

- A. A Agriculture -Residential
- B. E-1 Estate Residential
- C. R-1 Low Density Residential
- D. R-2 Medium Density Residential
- E. R-3 Multiple Family Residential
- F. MH Manufactured Housing
- G. C-1 General Commercial
- H. C-2 Research Office
- I. C-3 Heavy Commercial
- J. I-1 Industrial
- K. PUD

[Amended 3/8/2010]

### **Section 3.02 Zoning Map**

- A. The location and boundaries of the Royalton Township zoning districts are shown on a map adopted by the Royalton Township Board. The map shall be entitled “The Zoning Map of Royalton Township, Berrien County, Michigan,” and shall bear the date adopted or amended. It shall be the duty of the Township Supervisor and Township Clerk to authenticate such records by placing their official signatures thereon. Such map with all accompanying explanatory matter is hereby made a part of this Ordinance and shall be, as such, a part of this Ordinance as if the matters and information set forth thereon were all fully described herein.

- B. The official copy of the Zoning Map, bearing the words, “This is to certify that the above Map is the official Zoning Map referred to in Section 3.02 of the Royalton Township Zoning Ordinance, adopted on \_\_\_\_\_ as amended,” with all amendments noted, shall be kept on file in the office of the Township Clerk. It shall bear the signature of the Township Clerk.
- C. The Zoning Map shall be a representation of the zoning of properties located within the Township. Amendments to the Zoning Map shall be approved through Ordinance by the Township Board according to the provisions of Chapter 27 of this Zoning Ordinance. Unless otherwise provided herein, where there shall be a dispute, the zoning, as shown in the records of the Township Board’s decision, shall govern.

**Section 3.03 Interpretation of District Boundaries**

- A. Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules of construction and interpretation shall apply:
  - 1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
  - 2. Boundaries indicated as approximately following township boundaries shall be construed as following such boundaries.
  - 3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - 4. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or stream beds, and in the event of a change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.
  - 5. Boundaries parallel to streets without indication of the depth from the street line shall be construed as having a depth of 200 feet from the front lot line.
  - 6. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.
- B. A copy of the Zoning Map is located in the back of this Ordinance. It is an unofficial composite of the official Township Zoning Map.

**Section 3.04 Permissive Zoning**

No land contained within any zoning district within Royalton Township shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Chapter 16, Nonconforming Lots, Uses, and Structures. Land uses are permitted specifically in the various zoning districts of this Ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted in the district and approved in accordance with Section 3.07.

**Section 3.05 Uses Permitted by Right**

Permitted uses, as defined in Chapter 2 and as identified in Chapters covering each zoning district are subject to the general provisions, parking regulations, landscaping, zoning district intent, permit, certificate and site plan requirements found elsewhere in this Ordinance, but are otherwise considered to be lawful uses not requiring special or extraordinary controls or conditions, unless otherwise indicated herein. To determine if site plan approval is required, reference Chapter 22, Site Plan Review and Approval Procedures. To determine if a zoning permit is required, reference Section 25.06, Zoning Permits.

**Section 3.06 Uses Permitted by Special Land Use Permit**

The uses identified as special approval uses in each district, as defined in Chapter 2, may be subject to additional standards and conditions, beyond those general requirements of each zoning district, in order to safeguard the general health, safety and welfare of the community, and insure compatibility of uses within a specific district. Chapter 18, Standards for Specific Uses, contains specific conditions for many of these special land uses, as do the specific district chapters themselves. Chapter 23, Special Land Use Permit Review and Approval Procedures, specifies the process and requirements for special land use review and approval, which shall apply to all of these uses.

**Section 3.07 Uses Not Provided for Within a Use District**

An individual may desire a use that is not specifically permitted under the terms of this Ordinance, but which is essentially the same in nature as other uses, by right or by special land use permit, within a zoning district. Unless otherwise provided herein, uses that have not been specifically identified within any use district shall be considered special land uses and processed under the Special Land Use Permit procedure, in accordance with Chapter 23.



**Section 3.08 Schedule of Regulations**

All buildings, uses, and parcels of land shall comply with the dimensional standards set forth in the table below. Exceptions to the standards for each zoning district are provided in the footnotes following the table.

Zoning District	Lot Regulations			Minimum Setbacks ft.				Structure Regulations	
	Min. Lot Area (f)	Min. Lot Width (a, f)	Maximum Lot Coverage	Front Yard	Side Yard (c)		Rear Yard	Maximum Building Height (b)	
					Least One	Total of Two		Stories	Height ft.
A Chp. 4	5 acres	250 ft.	25% impervious	35 (d)	10 (d)	20	50	2½	35
E-1 Chp. 5	1 acre	120 ft. (e)	20% impervious	40	15	30	75	2½	35
R-1 Chp. 6	15,000 sq. ft.	100 ft. (e)	35% impervious structures	30	10	20	25	2½	35
R-2 Chp. 7									
R-2 Single Family	10,000 sq. ft.	80 ft. (e)	45% impervious	30	10(f)	20	30	2½	35
R-2 Two Family	6,000 sq. ft. per unit	100 ft. (e)	45% impervious	30	10(f)	20	30	2½	35
R-3 Chp. 8:									
R-3 Single Family	10,000 sq. ft.	80 ft (e)	45% impervious	30	10(f)	20	30	2½	35
R-3 Two Family	6,000 sq. ft. per unit	100 (e)	45% impervious	30	10(f)	20	30	2½	35
R-3 Multiple Family	3,600 sq. ft. per unit	100 ft. (e)	45% impervious	30	20(f)	40	30 (j)	2½	35
MH Chp. 9	10 acres	--	--	see Section 8.04				2	30
C-1 Chp. 10	12,500 sq. ft.	100 ft. (g)	70% impervious	50 (i)	10 (h, i)	20 (h, i)	40 (i)	2½	35
C-2 Chp.11	30,000 sq.ft.	125 ft.	60% impervious	40 (i)	10 (h, i)	20 (h, i)	25 (i)	2½	35
C-3 Chp.12	12,500 sq. ft.	100 ft.	70% impervious	50 (i)	15 (h, i)	30 (h, i)	40	2½	35
I-1 Chp.14	2 acre	150 ft.	70% impervious structures	50 (i)	25 (i)	50 (i)	30 (i)	2½	35

[Amended 3/8/2010]

**Section 3.09 Footnotes to the Schedule of Regulations**

- (a) **Lot Proportions.** The lot depth of a newly created lot in any district shall be no greater than four (4) times the lot width.
- (b) **Exceptions to Height Standards.** The height standards shall not apply to certain structures listed in Section 17.18.
- (c) **Setback on Side Yards Facing a Street.** On corner lots there shall be maintained a front yard along each street frontage that shall not be less than the minimum setback for front yards.
- (d) **Accessory Building Setbacks.** No accessory building shall project beyond the primary structure towards a required street setback, nor shall an accessory building be located nearer than 10 feet to the side property line. Where the primary building is located more than 200 feet from the front lot line, detached accessory structures may be constructed in the front yard, provided they remain no less than 200 feet from the front lot line.
- (e) At no time will a lot or lots be divided to provide frontage on a public street less than the required minimum width of the lot, except at the bulb end of cul-de-sac streets where the width of the lot may be reduced as noted below for the appropriate zoning district provided that the width of the lot satisfies the minimum standard at the building setback line.
 

E-1	90 feet
R-1	80 feet
R-2	70 feet, single family; 90 feet, two family
R-3	70 feet, single family; 90 feet, two family, multiple family and attached single family
- (f) **Lot Area and Lot Width.** Lot area and width requirements in all districts where public sewer and water is not available shall be based on compliance with the setback and lot coverage standards adopted requirements of the County Health Department; however, where this Ordinance imposes more restrictive requirements, this Ordinance shall prevail.
- (g) **Lot Depth.** Lots in the C-1 district shall maintain a minimum depth of 125 feet.
- (h) **Side Yard Parking.** The side yard setback for parking may be reduced to zero (0) feet to allow for shared parking between adjacent uses.
- (i) **Transitional Yards.** When a Commercial or Industrial District abuts a Residential or Agricultural zoning district, a transitional yard shall be provided on the commercially or industrially zoned property in addition to the minimum required yard for that side of the subject property based on the zoning district as noted below. See Section 20.04.

C-1	50 feet
C-2	30 feet
C-3	30 feet
I-1	50 feet

- (j) In the R-3 District, a rear yard serving a multiple family or attached single family dwelling that is adjacent to property located within the R-1 or R-2 districts shall be no less than forty-five (45) feet.

[Amended 3/8/2010]

## **CHAPTER 4**

### **A – AGRICULTURE RESIDENTIAL**

#### **Section 4.01 Description & Purpose**

This Zoning District is intended to allow extensive areas of the Township to be retained in agriculture use, to prevent scattered non-farm growth, to preserve woodlands and wildlife areas, and to retain open space in its natural state. The requirements of this district are designed so as to prevent unwarranted premature urban development from encroaching upon legitimate agricultural areas, thus disrupting the agricultural resources, environment and economy. Flexibility is introduced for creative, value-added, special uses as a mechanism for allowing the small, family-farmer to maintain their property without having to sell to development. Other alternatives such as purchase of development rights and cluster development are introduced. This Zoning District is also designed to help preserve the Township's agricultural and rural character by maintaining its wide-open view sheds, rural roads, existing woodlots and open spaces. All lands within the A, Agriculture Residential District are eligible for participation in the County's Farmland Preservation Program. Finally, the rights of the farmer as they pertain to generally recognized farming; i.e. fertilizing, spraying, cultivating, and all other operations incidental to the business of farming are inherent in this district.

#### **Section 4.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Agriculture and farms, for both general and specialized farming, together with a farm dwelling and buildings and other installations necessary to such farms.
- B. Temporary housing for migratory workers. (See Section 18.30)
- C. Greenhouses, nurseries, orchards, vineyards, apiaries, blueberry and other fruit farms, and other like forms of agriculture.
- D. Animal uses – Private Livestock. (See Section 18.06)
- E. Riding stables, commercial. (See Section 18.27)
- F. Riding stables, private. (See Section 18.28)
- G. Single family detached dwellings.
- H. Open space developments. (See Section 17.20)

- I. Publicly owned and operated parks, playgrounds, recreational field and similar public open space recreational uses, not including campgrounds.
- J. Roadside stand. (See Section 18.23)
- K. Adult foster care family home. (See Section 18.29)
- L. Family child day care home. (See Section 18.29)
- M. Foster family home. (See Section 18.29)
- N. Foster family group home. (See Section 18.29)
- O. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- P. Essential services. (See Section 18.11)

**Section 4.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23, Special Land Use Permit Review and Approval Procedures, in accordance with Section 4.04 and any other applicable provisions.

- A. Government buildings; libraries and museums; other public and quasi-public facilities and institutions.
- B. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto. (See Section 18.09)
- C. Schools, public and private. (See Section 18.24)
- D. Country clubs and/or golf courses. (See Section 18.13)
- E. Bed & Breakfast inns. (See Section 18.07)
- F. Radio and TV transmission towers. (See Section 18.21).
- G. Home occupations. (See Section 18.12)
- H. Cemeteries. (See Section 18.08)
- I. Agricultural tourism. (See Section 18.04)

- J. Campgrounds, public or private.
- K. Wireless communication facilities. (See Section 18.34)
- L. Kennels. (See Section 18.15)
- M. Accessory outdoor retail sales of plant material, lawn furniture, playgrounds, building supplies, etc. (See Section 18.18)
- N. Group child day care home. (See Section 18.29)
- O. Removal and processing of top soil, sand, gravel, or other such minerals. (See Section 18.31)
- P. Airports and aircraft landing fields, subject to the applicant obtaining the necessary FAA approvals. (See Section 18.05)
- Q. Composting center.
- R. Veterinary offices and clinics. (See Section 18.33)
- S. Wind turbines. (See Section 18.21)
- T. Outdoor recreation facilities. (See Section 18.13)
- U. Agricultural processing of products not grown or raised on the property; but not including tanneries, slaughterhouses or canneries. (See Section 18.04)
- V. Agricultural implement sales and services. (See Section 18.19)
- W. Senior housing. (See Section 18.02)
- X. Wine production, wineries. (See Section 18.04)
- Y. Animal Uses – Commercial Livestock (See Section 18.06)

#### **Section 4.04      Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

- A. **Lot Area Per Dwelling.** Every lot hereafter created in the A district shall have an area of not less than five (5) acres and a width at the established front property line of not less than two hundred fifty (250) feet.
- B. **Yard Areas.** Every building hereafter erected or enlarged shall provide and maintain a setback from the property lines in accordance with the following requirements:
1. **Front Yard.** A front yard of not less than thirty-five (35) feet shall be maintained from the front property line to any portion of the primary structure. On corner lots, both street frontages shall be considered front yards.
  2. **Rear Yard.** A rear yard of not less than fifty (50) feet shall be maintained from the rear property line to the primary structure. On corner lots, the rear yard is opposite the narrower of the two street frontages.
  3. **Side Yard.** A side yard of not less than ten (10) feet shall be maintained from any portion of the primary structure to the side property line. On corner lots, the side yard is the yard that is not a rear or front yard.
  4. No accessory building shall project beyond the primary structure towards a required street setback, nor shall an accessory building be located nearer than ten (10) feet to the side property line. Where the primary building is located more than 200 feet from the front lot line, detached accessory structures may be constructed in the front yard, provided they remain no less than 200 feet from the front lot line.
  5. Accessory structures for animal uses shall be subject to the requirements in Section 18.06.
- C. **Maximum Lot Coverage.** Not more than twenty-five (25) percent of the lot area may be occupied by buildings and structures, including accessory buildings.
- D. **Building Height.** No building shall exceed a height of thirty-five (35) feet or two and one-half (2 ½) stories, which ever is lower.
- E. **Lot Depth to Width.** No lot shall have a depth that is greater than four (4) times its width.
- F. **Signs.** As permitted or required in Section 17.12.

[Amended 3/8/2010]

## **CHAPTER 5**

### **E-1 – ESTATE RESIDENTIAL**

#### **Section 5.01 Description & Purpose**

The purpose of this district is to provide a buffer between the more dense commercial and residential neighborhoods in the northern portion of the Township and the rural, agricultural lands in the southern areas of the Township. This district is intended provide an opportunity for a rural lifestyle, while still preserving and protecting natural features and open spaces. Open Space development regulations are encouraged in this district to ensure that the development that does occur does not destroy the character and beauty of the area.

#### **Section 5.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Agriculture and farms, for both general and specialized farming, together with a farm dwelling and buildings and other installations necessary to such farms, excluding temporary housing for migratory workers.
- B. Greenhouses and nurseries, orchards, vineyards, apiaries, blueberry and other fruit farms, and other like forms of agriculture.
- C. Riding stables, commercial. (See Section 18.27)
- D. Riding stables, private. (See Section 18.28)
- E. Single family detached dwellings.
- F. Adult foster care family home. (See Section 18.29)
- G. Family child day care home. (See Section 18.29)
- H. Foster family home. (See Section 18.29)
- I. Foster family group home. (See Section 18.29)
- J. Open Space Preservation Developments. (See Section 17.20)
- K. Publicly owned and operated parks, playgrounds, recreational field and similar public open space recreational uses, not including campgrounds.



- L. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- M. Essential services. (See Section 18.11)

**Section 5.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23, Special Use Permit Review and Approval Procedures, in accordance with Section 5.04 and any other applicable provisions.

- A. Government buildings; libraries and museums; other public and quasi-public facilities and institutions.
- B. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto. (See Section 18.09)
- C. Schools, public and private. (See Section 18.24)
- D. Roadside stands (See Section 18.23)
- E. Country clubs and/or golf courses. (See Section 18.13)
- F. Bed & Breakfast inns. (See Section 18.07)
- G. Cemeteries. (See Section 18.08)
- H. Senior housing. (See Section 18.02)
- I. Outdoor recreation facilities. (See Section 18.13)
- J. Veterinary offices and clinics (See Section 18.33)
- K. Group child day care home. (See Section 18.29)
- L. Child day care center. (See Section 18.17)
- M. Home occupations. (See Section 18.12)
- N. Wine production, wineries. (See Section 18.04)
- O. Animal uses. (See Section 18.06)

- P. Agricultural tourism. (See Section 18.04)
- Q. Accessory outdoor retail sales of plant material, building supplies. (See Section 18.18)
- R. Kennels. (See Section 18.15)
- S. Radio and TV transmission towers. (See Section 18.21)

#### **Section 5.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

- A. **Lot Area.** The minimum lot size in the E-1 district shall be not less than one (1) acre. All lots are subject to a minimum width of at least one hundred twenty (120) feet at the front property line. At no time will a lot or lots be divided to provide frontage on a public street less than the width of the lot except at the bulb-end of cul-de-sac streets, where the width requirement may be reduced to ninety (90) feet, provided that the width of the lot satisfies the minimum standard at the building setback line.
- B. **Lot Depth to Width.** No lot shall have a depth that is greater than four (4) times its width.
- C. **Yard Areas.** No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement.
  - 1. **Front Yard.** A front yard of not less than forty (40) feet from the property line.
  - 2. **Side Yards.** A side yard on each side of the zoning lot of not less than fifteen (15) feet. Where a side yard adjoins a street, the minimum yard along the street shall be not less than that established above for a front yard.
  - 3. **Rear Yard.** A rear yard of not less than seventy-five (75) feet.
- D. **Lot Coverage.** Not more than twenty (20) percent of the area of a zoning lot may be covered by impervious surfaces, including buildings, structures, and driveways.
- E. **Building Height.** No building shall exceed a height of thirty-five (35) feet, or two and one-half (2 ½) stories, whichever is lower.
- F. **Utilities.** All new residential development shall connect to municipal water and sewer facilities. This shall include all approved subdivision, site condominium, and land division developments totaling five (5) or more parcels.

- G. See Section 17.24, Roadway Design Standards, as well as the Township Subdivision Ordinance for standards regarding curb cuts, driveways, and access points onto County road.

## **CHAPTER 6**

### **R-1 – LOW DENSITY RESIDENTIAL**

#### **Section 6.01 Description & Purpose**

The purpose of this district is to permit residential neighborhoods to develop in appropriate locations where they will be supported by infrastructure in the Township. It is anticipated that this district will serve residential development with access to public utilities, so as to minimize the impact of residential development on the Township's natural resources. These areas are intended to provide housing for the bulk of the residential demand in the Township.

#### **Section 6.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Single family detached dwelling units.
- B. Family child day care home. (See Section 18.29)
- C. Foster family home. (See Section 18.29)
- D. Adult foster care family home. (See Section 18.29)
- E. Foster family group home. (See Section 18.29)
- F. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- G. Essential services. (See Section 18.11)

#### **Section 6.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23.03, Special Land Use Permit Review and Approval Procedures, in accordance with Section 6.04 and any other applicable provisions.

- A. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto. (See Section 18.09)
- B. Schools, public and private. (See Section 18.24)

- C. Government buildings; libraries and museums; and other public and quasi-public facilities and institutions.
- D. Publicly owned and operated parks, parkways, and recreational facilities.
- E. Open Space Preservation Developments. (See Section 17.20)
- F. Home occupations. (See Section 18.12)
- G. Group child day care home. (See Section 18.29)
- H. Child day care center. (See Section 18.17)
- I. Senior housing, excluding senior apartments. (See Section 18.02)
- J. Adult foster care small or large group home. (See Section 18.29)
- K. County clubs and/or golf courses. (See Section 18.13)
- L. Child caring institution. (See Section 18.17)
- M. Bed and Breakfast Inns. (See Section 18.07)

**Section 6.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

**A. Lot Area.**

1. The minimum lot size in the R-1 district shall be not less than fifteen thousand (15,000) square feet with a width at the established front property line of not less than one hundred (100) feet. Lots adjoining a cul-de-sac at the bulb-end may reduce the required frontage at the street to not less than eighty (80) feet, provided that the parcel satisfies the one hundred (100) foot width standard at the building setback line.
2. All non-residential primary uses permitted in this district shall be located on a lot having an area of not less than one (1) acre and a width of not less than one hundred fifty (150) feet at the front property line.
3. On lots where septic tanks are used, the standards or ordinances of the Berrien County Health Department shall apply.

- B. **Lot Depth to Width.** No lot shall have a depth that is greater than four (4) times its width.
- C. **Yard Areas.** No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure, or enlargement:
1. **Front Yard.** A front yard of not less than thirty (30) feet from the front property line. Where the average of the front yard setbacks of the existing structures 200 feet to either side of the subject property is less than the minimum required, the required setback shall be established at the average in order to maintain a consistent streetscape and frontage.
  2. **Side Yard.** On every zoning lot, side yards shall be provided as follows:
    - a. **Single family dwellings.** A side yard shall be provided on each side of the zoning lot of not less than ten (10) feet.
    - b. **Non-residential buildings.** On a lot improved with a non-residential building, there shall be a side yard of not less than forty (40) feet on each side of the main structure.
    - c. Where a side yard adjoins a street, the minimum yard along the street shall be not less than the minimum front yard setback.
  3. **Rear Yard.** A rear yard of not less than twenty-five (25) feet.
- D. **Lot Coverage.** Not more than thirty-five (35) percent of the lot area may be occupied by impervious surfaces, including buildings, structures, and driveways.
- E. **Building Height.** No building shall exceed a height of thirty-five (35) feet or two and one-half (2 ½) stories, whichever is lower.
- F. **Utilities.** All new residential development shall connect to municipal water and sewer facilities. This shall include all approved subdivision, site condominium, planned unit development, and land division developments totaling five (5) or more parcels and/or single family residences.
- G. See section 17.23, Roadway Design Standards, as well as the Township Subdivision Ordinance for Standards regarding curb cuts, driveways, and access points onto County roads.

[Amended 3/8/2010]

## **CHAPTER 7**

### **R-2- MEDIUM DENSITY RESIDENTIAL**

#### **Section 7.01 Description & Purpose**

This district is intended to provide a variety of housing types to serve all Township residents. As slightly higher residential densities are permitted in this district, the affordability of units and range of housing options are likewise likely to increase. This district also serves as a buffer between lower density residential neighborhoods and adjacent commercial areas. The proximity to commercial areas should be embraced as an amenity, and these areas should be pedestrian friendly with walkable access to surrounding stores and facilities.

#### **Section 7.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Single-family detached residential dwelling units.
- B. Two-family attached dwelling units. (See Section 18.32)
- C. Family child day care home. (See Section 18.29)
- D. Adult foster care family home. (See Section 18.29)
- E. Foster family home. (See Section 18.29)
- F. Foster family group home. (See Section 18.29)
- G. Senior housing. (See Section 18.02)
- I. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- J. Essential services. (See Section 18.11)

#### **Section 7.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23.03, Special Land Use Permit Review and Approval Procedures, in accordance with Section 7.04 and any other applicable provisions.

- A. Bed & Breakfast inns. (See Section 18.07)
- B. Publicly owned and operated parks, parkways, and recreational facilities.
- C. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto. (See Section 18.09)
- D. Schools, public and private. (See Section 18.24)
- E. Home occupation. (See Section 18.12)
- F. Government buildings; libraries and museums; and other public and quasi-public facilities and institutions.
- G. Group child day care home. (See Section 18.29)
- H. Child day care center. (See Section 18.17)
- I. Convalescent or nursing homes. (See Section 18.02)
- J. Adult foster care large or small group home. (See Section 18.29)
- K. Adult foster care congregate facility.
- L. Child caring institution. (See Section 18.17)

**Section 7.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

**B. Lot Area.**

- 1. The minimum lot size for a single family detached dwelling shall be not less than ten thousand (10,000) square feet, with a width at the front property line of not less than eighty (80) feet. Lots along a cul-de-sac bulb may reduce the required frontage at the street to not less than seventy (70) feet, provided that parcels meet the eighty (80) foot lot width standard at the building setback line.
- 2. The minimum lot size for any two-family dwelling shall be not less than six thousand (6,000) square feet per dwelling unit, with a width at the front property line of not less than one hundred (100) feet. The required frontage for lots along a cul-de-sac bulb may be reduced at the street to not less than ninety (90) feet,



provided the one hundred (100) foot lot width requirement is met at the front setback line.

3. Any room other than a kitchen, bath, dining or living room shall be considered as a bedroom for purposes of determining the above requirements for land area per dwelling unit.
  4. All non-residential primary uses permitted in this district shall be located on a lot having an area of not less than one (1) acre and a width of not less than one hundred fifty (150) feet at the front property line.
- C. **Lot Depth to Width.** No lot shall have a depth that is greater than four (4) times its width.
- C. **Yard Areas.** No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement.
1. **Front Yard.** A front yard of not less than thirty (30) feet from the property line.
  2. **Side Yards.** On every zoning lot, side yards shall be provided as follows:
    - a. A side yard on each side of the zoning lot of not less than ten (10) feet. Where a side yard adjoins a street, the minimum yard along the street shall be not less than the minimum front yard setback.
    - b. **Non-residential buildings.** On a lot improved with a non-residential building, there shall be a side yard of not less than forty (40) feet on each side of the main structure.
  3. **Rear Yard.** There shall be a rear yard of not less than thirty (30) feet.
- a. **Lot Coverage.** No more than forty-five (45) percent of the lot area shall be occupied by impervious surfaces, including the principal structure, accessory structures, driveways, and parking facilities on site.
- E. **Building Height.** No building shall exceed a height of thirty-five (35) feet or two and one-half (2 ½) stories, whichever is lower.
- F. **Off Street Automobile Parking Facilities.** Automobile parking facilities shall be provided as permitted or required in Chapter 19.
- G. **Utilities.** All new residential development shall connect to municipal water and sewer facilities. This shall include all approved subdivision, site condominium, planned unit development, and land division developments totaling five (5) or more parcels and/or single family residences.

- H. See Section 17.23, Roadway Design Standards, as well as the Township Subdivision Ordinance for standards regulating curb cuts, driveways, and access points onto County roads.

[Amended 3/8/2010]

## **CHAPTER 8**

### **R-3 MULTIPLE FAMILY RESIDENTIAL**

#### **Section 8.01 Description and Purpose.**

The R-3 District is intended to allow for higher density residential development, although certain non-residential uses are also permitted by special use permit. Zoning in the high density residential district is permitted only for land served by public sanitary sewer, public or community water supply and paved roads. R-3 districts can serve as transition zones between lower density residential development and non-residential areas; and are generally located on or near major thoroughfares and close to shopping and recreation areas.

#### **Section 8.02 Permitted Uses.**

Land and buildings in the R-3 District may only be used for the following purposes.

- A. Single-family detached residential dwelling units.
- B. Two-family attached dwelling units. (See Section 18.32)
- C. Multiple family and townhouse dwellings with up to four units per building. (See Section 18.16)
- D. Family child day care home. (See Section 18.29)
- E. Adult foster care family home. (See Section 18.29)
- F. Foster family home. (See Section 18.29)
- G. Foster family group home. (See Section 18.29)
- H. Senior housing. (See Section 18.02)
- I. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- J. Essential services. (See Section 18.11)

**Section 8.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23.03, Special Land Use Permit Review and Approval Procedures, in accordance with Section 7.04 and any other applicable provisions.

- A. Multiple family and townhouse dwellings with more than four but no more than eight dwelling units per building. (See Section 18.16)
- B. Bed & Breakfast inns. (See Section 18.07)
- C. Publicly owned and operated parks, parkways, and recreational facilities.
- D. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto. (See Section 18.09)
- E. Schools, public and private. (See Section 18.24)
- F. Home occupation. (See Section 18.12)
- G. Government buildings; libraries and museums; and other public and quasi-public facilities and institutions.
- H. Group child day care home. (See Section 18.29)
- I. Child day care center. (See Section 18.17)
- J. Convalescent or nursing homes. (See Section 18.02)
- K. Adult foster care large or small group home. (See Section 18.29)
- L. Adult foster care congregate facility.
- M. Child caring institution. (See Section 18.17)

**Section 8.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

- A. **Lot Area.**
  - 1. The minimum lot size for a single family detached dwelling shall be not less than ten thousand (10,000) square feet per dwelling unit, with a width at the front property line of not less than eighty (80) feet. Lots along a cul-de-sac bulb may

reduce the required frontage at the street to not less than seventy (70) feet, provided that parcels meet the eighty (80) foot lot width requirement at the building setback line.

2. The minimum lot size for any two-family dwelling shall be not less than six thousand (6,000) square feet per dwelling unit, with a width at the front property line of not less than one hundred (100) feet. The required frontage for lots along a cul-de-sac bulb may be reduced at the street to not less than ninety (90) feet, provided the one hundred (100) foot lot width requirement is met at the front setback line.
3. For any multiple family or townhouse development, there shall be a minimum of three thousand six hundred (3,600) square feet of lot area per dwelling unit. No lot containing a multiple family or townhouse development shall be less than one hundred (100) feet wide at the front setback line. The required frontage for lots along a cul-de-sac bulb may be reduced at the street to not less than ninety (90) feet, provided the one hundred (100) foot lot width requirement is met at the front setback line.
4. All non-residential primary uses permitted in this district shall be located on a lot having an area of not less than one (1) acre and a width of not less than one hundred fifty (150) feet at the front property line.

B. **Lot Depth to Width.** No lot shall have a depth that is greater than four (4) times its width.

C. **Yard Areas.** No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement.

1. **Front Yard.** A front yard of not less than thirty (30) feet from the property line.
2. **Side Yards.** On every zoning lot, side yards shall be provided as follows:
  - a. **Single family and two family dwellings.** A side yard shall be provided on each side of the zoning lot of not less than ten (10) feet.
  - b. **Townhouse and multiple family buildings.** A side yard shall be provided on each side of the zoning lot of not less than twenty (20) feet.
  - c. **Non-residential buildings.** On a lot improved with a non-residential building, there shall be a side yard of not less than forty (40) feet on each side of the main structure.
  - d. Where a side yard adjoins a street, the minimum yard along the street shall be not less than the minimum front yard setback.

4. **Rear Yard.** There shall be a rear yard of not less than thirty (30) feet; however, a rear yard serving a multiple family or attached single family building that adjoins property in the R-1 or R-2 districts shall provide a rear yard setback of forty-five (45) feet.
5. **Building Separation.** Attached single family and multiple family buildings shall be separated from any other principle structure on the same parcel by at least thirty (30) feet.
6. **Minimum Floor Area.** Minimum floor area for all dwellings, other than single family detached, shall be:
  - a. 780 square feet for efficiency or one bedroom units,
  - b. 850 square feet for two bedroom units, and
  - c. 900 square feet for three bedroom units.
  - d. For each bedroom in excess of three, an additional 100 square feet is required.
  - e. Any room other than a kitchen, bath, dining or living room shall be considered as a bedroom for purposes of determining the above requirements.
- D. **Lot Coverage.** No more than forty-five (45) percent of the lot area shall be occupied by impervious surfaces, including the principal structure, accessory structures, driveways, and parking facilities on site.
- E. **Building Height.** No building shall exceed a height of thirty-five (35) feet or two and one-half (2 ½) stories, whichever is lower.
- F. **Off Street Automobile Parking Facilities.** Automobile parking facilities shall be provided as permitted or required in Chapter 19.
- G. **Utilities.** All new residential development shall connect to municipal water and sewer facilities. This shall include all approved subdivision, site condominium, planned unit development, and land division developments totaling five (5) or more parcels and/or single family residences.
- H. See Section 17.23, Roadway Design Standards, as well as the Township Subdivision Ordinance for standards regulating curb cuts, driveways, and access points onto County roads.

[Amended 3/8/2010]

## **CHAPTER 9**

### **MH – MANUFACTURED HOUSING**

#### **Section 9.01 Description & Purpose**

The Manufactured Housing district is established to provide land for high density residential uses. Included in these uses might be a manufactured housing park (or “mobile home park”) as defined by the Mobile Home Commission Act, P.A. 96 or 1987, as amended (MCLA 125.2301 et seq.), and the Manufactured Housing Commission General Rules. It is intended that manufactured housing parks be provided with necessary community services and other associated uses and facilities that serve the residents in the district (including but not limited to educational and cultural land uses, parks, and playgrounds) in a setting that provides a high quality of life for residents. This district’s location is premised on its proximity to existing services, along with an intent to minimize impact of high density housing on adjoining property owners.

Manufactured housing parks shall be subject to all the rules and requirements of the Mobile Home Commission Act, P.A. 96 of 1987, as amended and the Manufactured Housing Commission General Rules. When regulations in this Section exceed the State law or the Manufactured Housing Commission Rules, the higher standards of this ordinance are intended to ensure that the manufactured housing parks meet the development and site plan standards established by this Ordinance for other comparable residential development and to promote the health, safety, and welfare of the Township’s residents. The higher standards incorporated herein have been approved by the Manufactured Housing Commission in accordance with applicable State law.

#### **Section 9.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Manufactured homes located in a licensed manufactured home park.
- B. Manufactured home parks.
- C. Recreational facilities for the exclusive use of park residents and their guests.
- D. Office and residence for manager of the manufactured home park.
- E. Utility facilities, including laundry facilities for the manufactured home park.
- F. Accessory buildings as regulated herein and as would normally be ancillary to a manufactured home park.

- G. Essential services. (See Section 18.11)

### **Section 9.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23, Special Land Use Permit Review and Approval Procedures, in accordance with Section 9.04 and any other applicable provisions.

- A. Temporary buildings or trailer offices incidental to construction activities.
- B. Publicly owned and operated parks, playgrounds and recreational uses.
- C. Churches, synagogues, and other religious facilities and buildings.
- D. Home occupations. (See Section 18.12)

### **Section 9.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

- A. **Site Plan Review.** Site plans for a manufactured housing park shall be submitted to the Township and reviewed by the Planning Commission in accordance with the application requirements and procedures specified in Section 11 of the Mobile Home Commission Act, P.A. 96 of 1987, as amended. The Planning Commission shall take action to approve or deny the site plan, or approve the plan subject to conditions, within 60 days after the Township officially receives a complete and accurate application. The Planning Commission may table an application for further study, or to obtain additional information, provided that final action is taken within the 60-day review period. A copy of the state-approved final construction plan shall be submitted to the Township prior to the start of construction on the site. The final construction plan shall comply with the approved site plan.
- B. **Minimum Area for a Manufactured Housing Park.** The minimum parcel size for manufactured housing parks shall be ten (10) acres.
- C. **Minimum Manufactured Housing Site Size.** Manufactured housing parks shall be developed with a minimum manufactured housing site size of 5,500 square feet. Individual sites may be reduced to as small as 4,400 square feet, provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the minimum open space



required under sub-section “L” of this Section or the Manufactured Housing Commission rules.

**D. Setbacks.** Manufactured houses shall comply with the following minimum setbacks:

1. Twenty (20) feet from any part of an adjacent manufactured house, including an attached structure that may be used for living purposes for the entire year. If the adjacent home is sited next to the home on and parallel to the same internal road or an intersecting internal road, then the setback along the parallel frontages may be reduced to 15. Ten (10) feet from a detached structure or accessory of an adjacent home that may not be used for living purposes for the entire year.
2. A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:
  - a. The carport support pillars shall be located no further than three feet in front of the street side face of the primary house.
  - b. In no case shall the support pillars be located closer than four feet of the closest edge of the internal road or within two feet at the closest edge at a common sidewalk, if provided. Also, the roof overhang shall be setback two feet or more from the edge of the internal road.
3. Steps and their attachments shall not encroach into parking areas more than three and a half (3 ½) feet.
4. Fifty (50) feet from permanent community-owned structures, such as either of the following:
  - a. Clubhouses.
  - b. Maintenance and Storage Facilities.
5. One hundred (100) feet from any baseball, softball or similar recreational field.
6. Twenty-five (25) feet from the fence of a swimming pool.
7. Twenty-five (25) feet from a natural or man-made lake or waterway.
8. The manufactured home shall be setback from internal roads based on the following requirements:
  - a. If there is a common sidewalk between the manufactured home and the road, the home shall be located seven (7) feet from the sidewalk.

- b. If there is a parking space on an adjacent site, a parking bay off the home site, or widened pavement for on-street parking in front of the home, the home shall be located a minimum seven (7) feet away from each of these.
  - c. If none of these conditions exist, the manufactured home shall be located 10 feet from the edge of the internal road.
- 9. All manufactured homes, accessory buildings and parking shall be set back not less than 20 feet from any manufactured housing park boundary line, except that a minimum setback of 50 feet shall be provided from the street rights-of-way of public streets abutting the park.
- 10. Fifty (50) feet from the edge of any railroad right-of-way.
- 11. A home sited on one side of the dividing line between a community constructed under a previous act an expansion of the community constructed in compliance with the requirements of the act shall be a minimum of 13 feet from a home sited on the other side of the dividing line.
- E. **Maximum Height.** Buildings in a manufactured housing park (including manufactured homes and any community buildings) shall not exceed two (2) stories or 30 feet in height; accessory storage or service buildings adjacent to primary residential manufactured homes (not including common community storage buildings) shall not exceed 14 feet, or one (1) story in height. For manufactured homes, however, the construction standards contained in HUD's Manufactured Home Construction and Safety Standards (24 CFR 3280) shall take precedence.
- F. **Roads.** Roads shall satisfy the minimum dimensional, design, and construction requirements in the Manufactured Housing Commission Rules. The main entrance to the park shall have direct access to a public street or road, and the entrance shall be contained in a permanent easement and shall be recorded by the developers. All roads shall be hard-surfaced.
- G. **Parking.** Each manufactured housing site shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules, and a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking located convenient to the area served.
- H. **Common Storage Areas.** A common outside storage area shall be provided for boats, motorcycles, recreation vehicles and similar equipment, and a mini warehouse building may be provided for storage of household goods or equipment. All storage facilities in a manufactured housing park shall be shown on the site plan, and shall be limited to the exclusive use of the manufactured housing park residents. Such storage areas shall be screened from view by an opaque six (6) foot high wooden fence or six (6) foot high masonry wall with a landscaped greenbelt consisting of closely-spaced evergreen trees and shrubs, and shall not be located within any required yard on the perimeter of the

manufactured housing park. Park owners who prohibit storage of boats, motorcycles, recreation vehicles and similar equipment are not required to construct common areas for storage.

I. **Sidewalks.** Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of internal manufactured housing park streets. In addition, a five (5) foot wide concrete sidewalk shall be constructed along any public street abutting the manufactured housing park.

J. **Community Buildings and Facilities.**

1. Accessory buildings and structures, including park management offices, storage buildings, laundry facilities, or community facilities, shall be designed and operated for the exclusive use of park residents.
2. Site-built buildings and structures within a manufactured housing park, such as a management office or clubhouse, and any addition to a manufactured house that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development (HUD) for manufactured houses, shall be constructed in compliance with applicable building, electrical and fire codes and shall be subject to approval of appropriate permits and certificates of occupancy by the County.

K. **Storage of Personal Property.**

1. Except as otherwise noted in this Ordinance, no personal property, including tires, shall be stored outside or under any mobile home, or within carports that are open on any side.
2. Bicycles and motorcycles may be parked in carports. Seasonal outdoor storage of outdoor cooking grills is permitted so long as they are kept on either a finished wooden deck, a concrete or bituminous asphalt patio or equivalent type of surface associated with the home.
3. Storage sheds with a maximum area of 144 square feet may be placed upon any individual mobile home site for the storage of personal property.
4. Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
5. Storage sheds or accessory buildings may be used to store property but need not be provided by the owner of the mobile home park. One accessory building for private use may be placed on each mobile home site. A building permit shall be required for any accessory building not used as a garage that exceeds 200 square feet in area. An accessory building shall be permitted only in the rear or side yard of the mobile home site. It shall not be located closer than 10 feet to any

neighboring mobile home or manufactured housing unit, and shall not exceed 14 feet in height. If the accessory building is located within ten (10) feet or attached to the principal structure, it must have a firewall on the site of the building facing the principal use. The firewall shall comply with the State Construction Code.

- L. **Open Space.** Any manufactured housing park containing 50 or more manufactured housing sites shall provide a minimum of 2% of the Community’s gross acreage to dedicated and contiguous open space. However, communities must provide a minimum of 25,000 square feet of dedicated open space. The open space shall be well drained and located conveniently in relation to the majority of dwelling units intended to be served. Up to 25% of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.
- M. **Perimeter Landscaping.** All manufactured housing parks shall be screened from adjacent residential uses by a landscaped greenbelt consisting of closely-spaced deciduous and evergreen trees. A wood fence and/or decorative wall may also be used for screening but are not required. Where underground utilities would interfere or where the fence or wall would unreasonably obstruct the use of adjacent property, the fence or wall may be set back from the property line a sufficient distance to resolve such concerns.
- N. **Street Yard Landscaping.** A landscaped greenbelt shall be provided along all public streets abutting the manufactured housing park, which shall comply with the following requirements that are consistent with landscaping required for other residential developments in Royalton Township:

TYPE	STANDARDS	REQUIREMENTS
<b>Deciduous street trees</b>	Two and one-half (2 ½) caliper-inch starting size	1 per 40 lineal feet of road frontage
<b>Deciduous or evergreen shrubs</b>	Thirty (30) inch starting size	1 per 3 lineal feet of road frontage

- O. **Site Landscaping.** A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
- P. **Parking Lot Landscaping.** Landscaped planting strips and islands shall be dispersed throughout all parking lots to direct traffic flow, create shade and break-up large expanses of pavement. Parking lot landscaping shall be subject to the following standards:
  1. All landscaped areas shall be designed to ensure proper protection of the plant materials. Where adjacent to streets, driveway aisles, or parking areas, the landscaping shall be protected with concrete curbing. Plant materials used shall be hardy, salt-tolerant species characterized by low maintenance requirements.
  2. The size and number of planting islands and proposed plantings shall be in scale with the overall site, and shall clearly define the egress/ingress points, interior

circulation system and fire lanes. Landscaping shall not obscure traffic signs or lighting, access to fire hydrants or motorist sight-distance.

3. Planting islands shall have a minimum width of five (5) feet and a minimum area of 100 square feet. A minimum of one (1) deciduous shade tree shall be provided for each 100 square feet of planting area within the island. Ornamental trees, shrubs, mulch or groundcover shall be used to cover all unplanted areas of the island.
4. Planting islands shall be provided with an automatic underground irrigation system, unless the Planning Commission approves an alternate form of irrigation.

**Q. Garbage and Refuse Disposal.** Garbage and refuse disposal facilities shall be provided for community use. The facility shall comply with the following requirements:

1. The refuse facility shall be set back a minimum distance of 50 feet from the perimeter of the manufactured housing park and at least 15 feet from any building, in a location that is clearly accessible to the servicing vehicle.
2. The refuse facility shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three (3) sides.
3. The facility shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Concrete filled metal bollards shall be installed at the opening of the enclosure to prevent damage to the screening wall or fence.
4. Garbage and rubbish disposal in a manufactured housing community shall comply with MDEQ Rules R325.3351 to 354.

**R. Canopies and Awnings.** Canopies and awnings may be attached to any manufactured house and shall comply with the setback and distance requirements set forth in this Article. The installation of canopies and awnings shall require a building permit from the Berrien County Building Department and a zoning permit from the Township.

**S. Travel Trailer/Recreational Vehicles.** Travel trailers, recreational vehicles or those similar in nature, shall not be occupied as a permanent living quarters in a manufactured housing park, except for those existing “hybrid” manufactured housing communities already licensed by MDEQ to accommodate travel trailers in campground facilities.

**T. Towing Mechanisms.** Towing mechanisms shall be removed from all manufactured housing dwellings at the time of installation and must meet the design and installation requirements as stated sections 3280.901-904 of the Manufactured Home Construction and Safety Standards published by HUD.

- U. **Skirting.** All manufactured housing dwellings must be skirted within 90 days of installation and must meet the design and installation requirements as stated in Manufactured Housing Commission Rule 604, as amended.
- V. **Water and Sewer Service.** Public sewer systems shall be required in manufactured home development, if available within 200 feet at the time of preliminary plan approval. If a public sewer system is unavailable, the development shall connect to a state-approved sewage system.
- W. **Storm Drainage.** All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, designed and constructed in accordance with applicable local, county, and state regulations, including MDEQ Manufactured Home Park Standards.
- X. **Telephone and Electric Service.** All electric, telephone, cable TV, and other lines within the park shall be underground.
- Y. **Gas.** Any gas storage shall be located in underground tanks, at a safe distance from all manufactured housing sites. All gas lines leading to manufactured housing sites shall be underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.
- Z. **Operational Requirements.**
  - 1. **Permit.** It shall be unlawful for any person to operate a manufactured housing park unless that individual obtains a license for such operation in compliance with the requirements of the Mobile Home Commission Act, P.A. 96 of 1987, as amended. The County Building Inspector shall communicate his/her recommendations regarding the issuance of such licenses to the Director of Bureau of Construction Codes and Fire Safety, Michigan Department of Consumer and Industry Services. Additionally, no manufactured housing unit shall be placed on a site in an approved manufactured housing park until a building permit has been obtained to approve the manufactured housing unit setup on the lot.
  - 2. **Violations.** Whenever, upon inspection of any manufactured housing park, the County Building Inspector finds that conditions or practices exist which violate provisions of this Ordinance or other regulations referenced herein, the County Building Inspector shall give notice in writing by certified mail to the Director of Bureau of Construction Codes & Fire Safety, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety, and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

3. **Inspections.** The County Building Inspector or other authorized Township agent is granted the authority, as specified in the Mobile Home Commission Act, P.A. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Ordinance or other regulations referenced herein. No manufactured housing dwelling unit shall be occupied until a certificate of occupancy for that dwelling is obtained from the County Building Inspector.
  4. **License.** A manufactured housing park shall not be operated until a license has been issued by the Michigan Department of Consumer and Industry Services.
- AA. **Sale of Manufactured Housing.** Selling new or used manufactured houses as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or used manufactured houses located on sites within the manufactured housing park, to be used and occupied on that site, may be sold by a licensed dealer or broker, or by a resident of the manufactured housing park provided the park's regulations permit such sale.
- AB. **School Bus and Public Transit Stops.** School bus stops shall be located in an area that is acceptable to the school district and the manufactured housing park developer.
- AC. **Mailbox Clusters.** The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mailbox clusters are required, they shall be located at least 200 feet from any intersection of a manufactured housing park road with a public road.

[Amended 3/8/2010]

## **CHAPTER 10**

### **C-1 – GENERAL COMMERCIAL**

#### **Section 10.01 Description & Purpose**

The purpose of this district is to permit the continued use and redevelopment of existing and planned commercial areas within the Township. The C-1 district provides for a range of commercial uses that tend to be destination oriented. Some are relatively intense in nature, including outdoor storage or sales and expansive parking. This zoning district is intended to coincide with the General Commercial designation in the Township Development Plan. Expansion of the district beyond the area depicted on the Future Land Use Map should be discouraged.

#### **Section 10.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Retail establishments not exceeding 50,000 square feet in total floor area; provided all activities are conducted within a completely enclosed building.
- B. Art galleries and studios.
- C. Banks and financial institutions, excluding drive through or drive up facilities.
- D. Business and professional offices such as administrative, legal, architecture, engineering, financial, insurance, real estate, accounting, governmental, and other similar offices.
- E. Child day care center. (See Section 18.17)
- F. Convalescent or nursing home. (See Section 18.02)
- G. Food and beverage service establishments such as sit down restaurant, carry out restaurant and bar/lounge, but excluding drive in, drive through or fast food restaurants.
- H. Food and beverage stores for the sale of groceries, fruit, and meat; baked goods; dairy products; beverages and liquor.
- I. Furniture store and/or showroom; interior design offices and showrooms.
- J. Laundries, automatic or self-service, including dry cleaning pick-up, but excluding a dry cleaning plant



- K. Medical and dental offices and clinics.
- L. Music/dance studios.
- M. Nursery schools. (See Section 18.17)
- N. Personal service establishments such as barber shops, beauty salons and tanning salons.
- O. Repair shops for bicycles, appliances, shoes, jewelry, small motors, and other such items but not motor vehicles.
- P. Veterinary offices and clinics providing medical, surgical, and grooming facilities for small non-farm animals. (See Section 18.33)
- Q. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- R. Essential services. (See Section 18.11)

### **Section 10.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23, Special Land Use Permit Review and Approval Procedures, in accordance with Section 10.04 and any other applicable provisions.

- A. Retail stores greater than 50,000 square feet. (See Section 18.22)
- B. Accessory outdoor retail sales of plant material, lawn furniture, playground equipment, and home garden supplies, as a component of a permitted principal retail use. (See Section 18.18)
- C. Adult foster care congregate facility. (See Section 18.29)
- D. Adult foster care family home. (See Section 18.29)
- E. Adult foster care group home. (See Section 18.29)
- F. Banquet halls, private clubs, and fraternal halls.
- G. Car wash. (See Section 18.26)
- H. Churches, synagogues and other religious facilities and buildings. (See Section 18.09)

- I. Drive through or drive up facilities for permitted uses such as restaurants, banks, or pharmacies. (See Section 18.10)
- J. Funeral homes.
- K. Gas Stations (See Section 18.26)
- L. Government buildings, libraries, museums.
- M. Hotels
- N. Indoor or outdoor recreation facilities. (See Section 18.13)
- O. Offices, showrooms, or workshop of a plumber, electrician, building contractor, upholsterer, caterer, exterminator, heating and cooling contractor, decorator, or similar trade.
- P. Vehicle repair, minor (See Section 18.26)
- Q. Residential units when located above ground floor offices or commercial establishments.
- R. Other uses of a similar nature to those listed above which the Planning Commission finds to be consistent with the purpose of this Ordinance and which will not impair the present and potential use of adjacent properties.

#### **Section 10.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

##### **D. Lot Area**

1. The minimum lot area in the C-1 district shall be twelve thousand five hundred (12,500) square feet.
2. Lots in the C-1 district shall maintain a minimum width along the street frontage of one hundred (100) feet.
3. Lots in the C-1 district shall maintain a minimum depth of one hundred twenty five (125) feet.

- B. **Lot Depth to Width.** No lot shall have a depth that is four (4) times greater than its width.

C. **Yard Areas.**

1. **Front Yard.** A front yard of not less than thirty-five (35) feet.
2. **Rear Yard.** A rear yard of not less than twenty-five (25) feet.
3. **Side Yard.** If an interior side yard is provided, it shall be not less than ten (10) feet. Where a side yard abuts a street, the minimum yard along the street shall be the same as the front yard setback. The side yard setback for parking may be reduced to zero (0) feet to allow for shared parking between adjacent uses.

D. **Lot Coverage.** Not more than seventy (70) percent of the lot area may be covered by impervious surfaces, including buildings, structures, driveways, parking, and other paved surfaces.

E. **Building Height.** No building or structure shall be constructed to exceed a height of thirty-five (35) feet, or two and a half (2 ½) stories, whichever is lower.

F. **General Conditions.** All uses in the C-1 – General Commercial District shall be subject to the following conditions:

1. All uses within this district shall be conducted within an enclosed structure.
2. All goods produced and services performed on the premises shall be sold at retail on the premises produced.
3. If deemed necessary by the Zoning Administrator or at the request of the Planning Commission, a Traffic Impact Analysis shall be required for special uses in the C-1 district. The Traffic Impact Analysis shall include, at minimum, the following information: trip generation estimates, the volume of existing traffic on roads adjacent to the site, the peak hour volume of traffic expected to be generated by the proposed development, estimates of the directional distribution of trips generated by the development, projected assignment of vehicle trip volumes to the roadway network, analysis of anticipated turning movements and required left or right turn controls, and recommendations to mitigate the impact of the development on the transportation system.
4. Sidewalks shall be required along all street frontages. Sidewalks shall be a minimum width of five (5) feet. Building and site layout shall be arranged to ensure safe pedestrian movement for passersby and patrons of the business(s).
5. Such uses, operations, or products, shall not create unreasonable odor, dust, smoke, noise, vibration, or other similar nuisances or annoyances.
6. Off-premise signs shall not be permitted in the C-1 District.

- H. **Screening.** Side yards and rear yards adjacent to residential or agriculturally zoned property shall be treated in one of the following methods, in addition to the requirements of Chapter 20, Landscaping and Screening:
1. A 20 foot greenbelt buffer shall be required along the shared property line with a combination of evergreen and deciduous trees planted ten (10) feet on center along the length of the property line in accordance with Chapter 20; or
  2. A ten (10) foot landscape buffer shall be required along the shared property line with a combination of evergreen and deciduous trees planted ten (10) feet on center along the length of the property line in accordance with Chapter 20, and a solid masonry wall or opaque wood fence six (6) feet in height.
- I. **Access.** Commercial uses shall have no more than one access drive along any public road right-of-way; except in such case where parcels abut two public roads, one access drive may be permitted along each adjoining road frontage. For multiple tenant buildings and commercial developments, shared drives, connected parking lots, and parallel access roads shall be utilized. The Planning Commission may permit one (1) additional driveway where a parcel has more than 330 feet of continuous frontage and the need for the additional driveway is supported by a traffic study prepared by a registered traffic engineer.

[Amended 3/8/2010]

## **CHAPTER 11**

### **C-2 – RESEARCH - OFFICE**

#### **Section 11.01 Description & Purpose**

The purpose of this district is to accommodate and attract a compatible and mutually supportive mix of office, low intensity research and institutional uses that support or complement a health care campus. Some complementary services are also permitted to support these uses. The C-2 district's location is based upon good transportation access, available public utilities, and compatibility with its surroundings. The Research Office District is intended to promote integrated circulation, pedestrian access, quality design, and aesthetic details to create a high quality environment. Specifically, the Research Office District is intended to achieve the following objectives:

- A. Implement recommendations of the Development Plan;
- B. Promote high quality architecture and site design.
- C. Create a pedestrian friendly environment through the provision of internal pedestrian and non-motorized amenities on and off site.
- D. Ensure office and research developments are complementary with pre-existing historical structures, as well as sensitive to natural features and sensitive areas.
- E. Promote long-term economic and social viability throughout the Township.
- F. Reduce traffic conflict points along primary roads by promoting the creation of a system of internal streets and access roads and restricting access points onto primary roads.
- G. Promote the creation of an office and research campus to minimize traffic congestion, enhance public safety, and protect sensitive environments.
- H. Encourage superior design and architectural solutions that provide visual enhancement to the community.

#### **Section 11.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Banks and similar financial institutions, not including drive-through facilities.

- B. Business and professional offices for administrative, legal, architecture, engineering, financial, insurance, real estate, accounting and similar functions.
- C. Data processing and computer centers, including service and maintenance of electronic data processing equipment.
- D. Health clubs.
- E. Laboratories, offices, and other facilities for basic and applied research, experimentation, testing etc.
- F. Medical and dental offices and clinics.
- G. Restaurants, not including drive-through facilities.
- H. Technical or vocational training facilities.
- I. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- J. Essential services. (See Section 18.11)

### **Section 11.03 Uses Permitted by Special Land Use Permit**

The following uses are permitted only after approval of a Special Land Use Permit in accordance with the procedures of Chapter 23, Special Land Use Review and Approval Procedures, in accordance with Section 11.04 and any other applicable provisions.

- A. Child day care center. (See Section 18.17)
- B. Drive-through facilities accessory to a bank or pharmacy. (See Section 18.10)
- C. Facilities for human care, such as hospitals, convalescent and nursing homes. (See Section 18.02)
- D. Pharmacy.
- E. Other uses of a similar nature to those listed above which the Planning Commission finds to be consistent with the purpose of this ordinance and which will not impair the present and potential use of adjacent properties.

## Section 11.04 Development Standards

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

A. **Lot Area.**

1. The minimum lot area in the C-2 district shall be thirty-thousand (30,000) square feet.
2. Lots in the C-2 district shall maintain a minimum width at the street frontage of one hundred twenty-five (125) feet.

B. **Lot Depth to Width.** No lot shall have a depth that is four (4) times greater than its width.

C. **Yard Areas.**

1. **Front Yard.** A minimum front yard of forty (40) feet is required.
2. **Side Yard.** A minimum side yard of ten (10) feet is required, if it is an interior side yard. Where a side yard adjoins a street, the minimum yard along the street shall be not less than the minimum front yard setback. The side yard setback may be reduced to zero (0) to allow for shared parking facilities.
3. **Rear Yard.** A minimum rear yard of twenty-five (25) feet is required.
4. **Transitional Yards.** Where a C-2 district adjoins a residential or agricultural zoning district, a thirty (30) foot transitional yard shall be provided in addition to the minimum required yard for that side of the subject property. A transition strip shall be provided within the transitional yard (See Section 20.04 and 20.05).

D. **Lot Coverage.** Not more than sixty (60) percent of the lot area may be covered by impervious surfaces, including buildings, structures, driveways, parking, and other paved areas.

E. **Building Height.** The height of any structure in the C-2 district shall not exceed forty-five (45) feet.

F. **Retail and Personal Service Uses.** Unless located entirely within a permitted principal building and clearly subordinate to the principal use of that building, retail or personal service uses permitted by this Chapter shall only be permitted on a parcel that abuts Niles Road and meets the minimum width requirements of this District on that road. Where a permitted retail or service use is established as accessory to a permitted principal use the standards of Section 17.08, Accessory Uses and Structures, shall be met. The Planning

Commission or Township Board may also place additional reasonable restrictions on any such accessory use to further the intent of this Chapter.

- G. **General Conditions.** All uses in the C-2 – Research Office District shall be subject to the following conditions:
1. All uses within this district shall be conducted within an enclosed structure.
  2. There shall be no outside storage of goods, inventory, or equipment.
  3. If deemed necessary by the Zoning Administrator or at the request of the Planning Commission, a Traffic Impact Analysis shall be required for special uses in the C-2 district. The Traffic Impact Analysis shall include, at minimum, the following information: trip generation estimates, the volume of existing traffic on roads adjacent to the site, the peak hour volume of traffic expected to be generated by the proposed development, estimates of the directional distribution of trips generated by the development, projected assignment of vehicle trip volumes to the roadway network, analysis of anticipated turning movements and required left or right turn controls, and recommendations to mitigate the impact of the development on the transportation system.
  4. Sidewalks shall be required along all street frontages. Building and site layout shall be arranged to ensure safe pedestrian movement for passersby and patrons of the business(s). Pathways, sidewalks, and other similar amenities on individual properties shall be coordinated and connected with walkways and pathways of adjacent properties to create an integrated circulation network and a general campus feeling within the area.
- H. **Landscaping.** In addition to the standards of Chapter 20, Landscaping and Screening, the landscaping in the front yard and along the front building elevation shall be enhanced with unique site design features, annual plantings, or other similar landscape elements, to complement the architecture of the building.
- I. **Access.** Office and Research uses shall have no more than one access drive along any public road right-of-way; except in such case where parcels abut two public roads, one access drive may be permitted along each adjoining road frontage. For multiple tenant buildings and commercial developments, shared drives, connected parking lots, and parallel access roads shall be utilized. The Planning Commission may permit one (1) additional driveway where a parcel has more than 330 feet of continuous frontage and the need for the additional driveway is supported by a traffic study prepared by a registered traffic engineer.
- J. **Loading.** In addition to the standards of Chapter 19, Parking and Loading, all loading spaces must be fully screened from the view of any property that is zoned to allow residential use



- K. **Signs.** In addition to the standards of Section 17.11, post signs are prohibited in the C-2 district. All signs must be monument style with a masonry or brick base. The maximum height is eight (8) feet with a maximum sign face of 32 square feet. (See Section 17.11 for details on Sign Measurement).
- L. **Lighting.** In addition to the standards of Section 17.19, all sites shall provide enough lighting to permit safe movement of vehicles and pedestrians at night. However, there shall be no spillage of light onto properties that are not in this zoning district. Furthermore, where the proposed project is part of a larger development, the type of lighting (e.g., high-pressure sodium, metal halide, etc.) should be consistent throughout the entire development. It is preferred that this be consistent through the entire zoning district.
- M. **Trash Removal.** The method of trash removal is to be shown on the site plans presented to Planning Commission for approval. Dumpsters and similar receptacles should be screened in a manner acceptable to Chapter 20, Landscaping and Screening.
- N. **Building Design Standards.** All buildings in the Research Office District shall be designed according to these standards.
1. The exterior facades of commercial, office, or high tech/research buildings shall be constructed of brick, stone, glass, or other similarly decorative material as determined by the Planning Commission. No more than 10% of the exterior façade may contain EIFS or decorative masonry block.
  2. Elevators, stairways, tanks, heating and air conditioning equipment, vents, ducts, pipes and other similar apparatus shall be screened from view from off-site by a penthouse or structure equal in height to the height of the equipment being screened. The outside finish materials shall be the same as or complementary to the building facade finish materials to which it is attached. The Planning Commission may modify this requirement during site plan review.
  3. Building elevations and landscaping on sites adjacent to primary roads shall be of equal importance and present an attractive appearance, comparable to the building front.
  4. In determining the appropriateness of building design, the plan shall be evaluated in relation to existing and proposed surrounding buildings and uses. Buildings within the same general area shall be similarly designed and constructed so as to blend together into one development and one campus setting. The Planning Commission shall have the right to recommend changes to the building design prior to approval if it does not appropriately coordinate.

[Amended 3/8/2010]

## **CHAPTER 12**

### **C-3 – HEAVY COMMERCIAL**

#### **Section 12.01 Description & Purpose**

The Heavy Commercial district is established for the purpose of providing locations for commercial and service uses that require large sites, cater to the motoring public, or involve processes/activities that may not be compatible with some other commercial uses. Only limited retail uses are permitted. The District's application is intended to be confined to areas where access to regional transportation networks and public utilities are available. Due to the District's prominent locations and relative intensity of uses, screening and buffering are required. This district is located at major entrances to the Township, so development should provide a positive image of the Township.

#### **Section 12.02 Permitted Uses**

Land, buildings, and structures in this zoning district are permitted by right for the following purposes only:

- A. Banking and financial institutions, excluding drive through or drive up facilities.
- B. Banquet halls, private clubs, and fraternal clubs.
- C. Building materials sales, when conducted within a wholly enclosed building.
- D. Data processing and computer centers, including service and maintenance of electronic data processing equipment.
- E. Hotels.
- F. Offices, showrooms, or workshop of a plumber, electrician, or similar trade.
- G. Restaurants, not including drive-through facilities.
- H. Self-storage warehouse or self-storage units. (See Section 18.25)
- I. Technical or Vocational Training Facilities.
- J. Vehicle and equipment sales and service (excluding major repair) for automobiles, trucks, agricultural implements, manufactured homes, and recreational vehicles.. (See Section 18.19)
- K. Vehicle repair, minor. (See Section 18.26)

- L. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- M. Essential services. (See Section 18.11)

### **Section 12.03 Uses Permitted by Special Use Permit**

The following uses are permitted only after approval of a Special Use Permit in accordance with the procedures of Chapter 23, Special Use Permit Review and Approval Procedures, in accordance with Section 12.04 and any other applicable provisions.

- A. Accessory outdoor retail sales of plant material, lawn furniture, playground equipment, and home garden supplies, as a component of a permitted principal retail use. (See Section 18.18).
- B. Car wash facility, both automatic and self-service. (See Section 18.26)
- C. Drive through or drive up facilities for permitted uses such as restaurants or banks. (See Section 18.10)
- D. Gas station. (See Section 18.26)
- E. Outdoor recreation facilities. (See Section 18.13)
- F. Truck, tractor, trailer or bus garage, including a motor freight terminal.
- G. Vehicle repair, major. (See Section 18.26)
- H. Wireless communication facilities. (See Section 18.34)
- I. Other uses of a similar nature to those listed above which the Planning Commission finds to be consistent with the purpose of this Ordinance, and which will not impair the present or potential use of adjacent properties.

### **Section 12.04 Development Standards**

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

- A. **Lot Area.**
  - 1. The minimum lot area in the C-3 district shall be thirty thousand (30,000) square feet.

2. The minimum width along the street frontage shall be one hundred fifty (150) feet.
- B. **Lot Depth in Width.** No lot shall have a depth that is more than four (4) times greater than its width.
- C. **Yard Areas.**
1. **Front Yard.** A front yard of not less than fifty (50) feet is required and parking areas shall be set back at least twenty (20) feet. A landscaped greenbelt shall be provided along the street frontage within the twenty (20) foot setback area, in accordance with the provisions of Section 20.08.
  2. **Side Yard.** A side yard of not less than fifteen (15) feet is required. Where a side yard is adjacent to a roadway, the minimum yard along the street shall be equal to the minimum front yard setback. The side yard setback may be reduced to zero (0) feet to allow for shared parking with adjacent uses.
  3. **Rear Yard.** A rear yard of not less than forty (40) feet is required
  4. **Transitional Yards.** Where a C-4 district adjoins a residential or agricultural zoning district, a thirty (30) foot transitional yard shall be provided in addition to the minimum required yard for that side of the property. A transitional strip shall be required within the transition yard (See Section 20.04 and 20.05)
- D. **Lot Coverage.** Not more than seventy (70) percent of lot area may be covered by impervious surfaces, including buildings, structures, driveways, parking, and other paved areas.
- E. **Building Height.** No building or structure shall be constructed in the C-3 district exceeding thirty-five (35) feet, or two and a half (2 1/2) stories.
- F. **General Conditions.** The following general conditions shall apply to all sites developed within the C-3 district:
1. Each use shall be conducted wholly within a fully enclosed building, unless otherwise permitted by this Ordinance.
  2. In no case shall noise, odor, fumes, dust, smoke, glare, or radioactive material impact adjacent districts on which residential occupancy is permitted within Royalton Township.
  3. All stormwater drainage shall be accommodated on site in a manner acceptable to the Township.

4. All site plans shall be reviewed by the Royalton Township Fire Chief to ensure proper accessibility by fire and emergency vehicles.
- G. **Off-Street Parking and Loading.** Parking and Loading facilities shall be provided as required or permitted in Chapter 19.

[Amended 3/8/2010]

**CHAPTER 13**  
**(Reserved)**

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## **CHAPTER 14**

### **I-1 – INDUSTRIAL**

#### **Section 14.01 Description & Purpose**

The Industrial district is intended to provide locations for high intensity, industrial uses. As industrial uses often have attendant effects such as noise, odors, pollution, vibration, traffic and lighting, extra care must be exercised to insure management of these effects through setbacks, buffers, screening and appropriate location. The Industrial district should be located so as to minimize effects on adjacent land uses, as well as to provide ready access to a good transportation network.

#### **Section 14.02 Permitted Uses**

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

- A. The manufacture, assembly, compounding, processing, packaging, treatment or testing of products; such as bakery goods, candy, soap (cold mix only), cosmetics, pharmaceutical products, toiletries, dairy and food products, hardware, and cutlery. The manufacturing, processing, and assembling from basic raw materials, including the rendering or refining of fats and oils, shall be prohibited.
- B. The manufacture, assembly, compounding, processing, packaging, treatment or testing of articles of merchandise from the following previously prepared materials which have been manufactured elsewhere: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stones, sheet metal (excluding large stampings such as automobile body panels), ferrous and non-ferrous metals (excluding large castings and fabrications), shell, textiles, tobacco, wax, wire, yarn, wood (excluding saw and planing mills), and paint (not employing boiling process).
- C. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
- D. Bottling plants and dairies.
- E. Commercial laundries, laundry services & dry cleaning plants, excluding retail service.
- F. Data processing and computer centers, including service and maintenance of electronic data processing equipment.

- G. High technology research and development uses which has as its principal function research, services, light manufacturing, assembly, fabrication, or machining from processed materials. Such uses shall include but are not limited to computer information transfer, communication, distribution, management, processing, administration, laboratory, experimental, developmental, technical, testing services, agricultural technology, biological or pharmaceutical research, software technology, telecommunications, biomedical technology, fluid transfer and handling technology, defense and aerospace technologies or other technology oriented or emerging industrial or business activity.
- H. Laboratories, offices, and other facilities for basic and applied research, experimentation, testing, product design, technology development, consulting, and business development.
- I. Machine shop.
- J. Printing shop.
- K. Self-storage warehouse or self-storage units. (See Section 18.25)
- L. Sign painting and servicing shop.
- M. Taxidermist.
- N. Tool, die, and gauge shop.
- O. Wholesale and warehousing businesses; storage buildings; resale shops; commercial laundries; cleaning establishments; frozen food lockers; linen, towel, diaper, and similar supply services; and shipping, packing, and mailing companies.
- P. Accessory uses and structures customarily incidental to the above permitted uses. (See Section 17.08)
- Q. Essential services. (See Section 18.11)

### **Section 14.03 Uses Permitted by Special Use Permit**

The following uses are permitted only after approval of a Special Use Permit in accordance with the procedures of Chapter 24, Special Use Permit Review and Approval Procedures, in accordance with Section 14.04 and any other applicable provisions.

- A. Auto repair, minor. (See Section 18.26)
- B. Auto repair, major. (See Section 18.26)
- C. Agricultural implement sales and services. (See Section 18.19)



- D. Adult uses, sexually oriented businesses. (See Section 18.03)
- E. Car wash facility, both automatic and self-service. (See Section 18.26)
- F. Composting center.
- G. Contractor yards.
- H. Ethanol plant.
- I. Gas stations. (See Section 18.26)
- J. Junkyards and salvage yards. (See Section 18.14)
- K. Offices, showrooms, or workshop of a plumber, electrician, or similar trade.
- L. Outdoor storage, accessory to a permitted principal use.
- M. Petroleum and fuel storage provided it is located at least 500 feet from any district that permits residential uses.
- N. Radio and TV transmission towers. (See Section 18.21)
- O. Recreational vehicle sales and service. (See Section 18.19)
- P. Removal and processing of top soil, sand, gravel, or other such minerals. (See Section 18.31)
- Q. Restaurants, financial institutions, vocational training centers, and other retail uses clearly accessory to the principal industrial use established to serve the employees of the industrial facilities within the localized area only.
- R. Saw and planing mills.
- S. Truck, tractor, or bus garage, including a motor freight terminal
- T. Wind turbines. (See Section 18.21)
- U. Wireless communication facilities. (See Section 18.34) .
- V. Other uses of a similar nature to those listed above which the Planning Commission finds to be consistent with the purpose of this Ordinance, and which will not impair the present or potential use of adjacent properties.

## Section 14.04 Development Standards

No building, nor any enlargement thereof, shall be hereafter erected except in conformance with the following minimum standards.

- A. **Lot Area.** The minimum lot area in the I-1 district shall be two (2) acres. Each lot shall have a minimum width along the street frontage of one hundred fifty (150) feet.
- B. **Lot Depth to Width.** No lot shall have depth that is greater than four (4) times its width.
- C. **Yard Areas.** No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such building:
  - 1. **Front Yard.** On every zoning lot a front yard of not less than fifty (50) feet in depth shall be provided.
  - 2. **Side Yards.** A minimum of twenty five (25) feet is required along side yards. Where the side yard is adjacent to the street, the side yard requirement shall be equal to the minimum front yard setback.
  - 3. **Rear Yard.** A minimum of thirty (30) feet shall be maintained in the rear yard.
  - 4. **Transitional Yards.** Where a lot in the I-1 district is adjacent to property in a residential or agricultural zoning district, a fifty (50) foot transitional yard shall be provided in addition to the minimum yard requirement for that side of the property. A transition strip shall be provided within the transitional yard in accordance with Chapter 20.
- D. **Maximum Lot Coverage.** A maximum of seventy (70) percent of a lot area may be covered by impervious surfaces, including buildings, structures, driveways, parking, and other paved surfaces. For parcels greater than the ten (10) acres in size, the maximum percentage of lot coverage shall be sixty (60) percent.
- E. **Building Height.** No building or structure shall exceed a height of thirty-five (35) feet, or two and a half (2 ½) stories, whichever is lower.
- F. **General Conditions.** The following general conditions shall apply to all sites developed within the I-1 district:
  - 1. All business, production, servicing, and processing shall take place within a completely enclosed building unless otherwise specified. Within one hundred and fifty (150) feet of a residential or agricultural zoning district and within required front and side yards, all storage shall be in completely enclosed buildings or structures. Storage located elsewhere in this district may be open to the sky but shall be enclosed by solid walls or fences (including solid doors or gates thereto)

at least six (6) feet height, but in no case lower in height than the enclosed storage, and suitably landscaped. However, open off-street loading facilities and open off-street parking of motor vehicles under one and one-half (1 ½) tons capacity may be unenclosed throughout the district, except for such screening of parking and loading facilities as may be required under the provisions of Chapter 19.

2. In no case shall noise, odor, fumes, dust, smoke, glare, or radioactive material impact adjacent districts on which residential occupancy is permitted within Royalton Township. All uses must satisfy the performance standards contained in Section 17.06.
  3. All storm water drainage shall be accommodated on site in a manner acceptable to the Township and the Berrien County Drain Commissioner.
  4. All site plans shall be reviewed by the Royalton Township Fire Chief to ensure proper accessibility by fire and emergency vehicles.
  5. Uses established on the effective date of this ordinance and by its provisions rendered non-conforming shall be permitted to continue, subject to the regulations of Chapter 17.
  6. Uses established after the effective date of this ordinance shall conform fully to the performance standards of Section 17.06 and the other requirements of this Ordinance.
- G. **Off-Street Parking and Loading.** Off street parking and loading shall be as permitted or required in Chapter 19.

## **CHAPTER 15**

### **FLOOD HAZARD OVERLAY DISTRICT**

#### **Section 15.01 Description and Purpose**

The flood hazard areas of Royalton Township are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of tax base, all of which adversely affect the public health, safety and general welfare.

It is the purpose of this Ordinance to significantly reduce hazards to persons and damage to property as a result of flood conditions in Royalton Township, and to comply with the provisions and requirements of the national Flood Insurance Program, as constituted in accord with the national Flood Insurance Act of 1968, and subsequent additions.

Further, the objectives of this Ordinance include:

- A. Control flood-plain uses such as fill, dumping, storage of materials, structures, buildings, and any other works, which, acting alone or in combination with other existing or future uses, will cause damaging flood heights and velocities by obstructing flows and reducing valley storage.
- B. Protect human life and health.
- C. Minimize public and private property damage.
- D. Protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- E. Minimize surface and groundwater pollution which will affect human, animal, or plant life.
- F. Control development that will, when acting alone or in combination with similar developments, create an unjustified demand for public investment in flood-control works by requiring that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
- G. Control development which will, when acting alone or in combination with similar development, cause flood losses if public streets, sewer, water, and other utilities must be extended below the flood level to serve the development.
- H. Control development which will, when acting alone or in combination with similar development, create an additional burden to the public to pay the costs of rescue, relief,

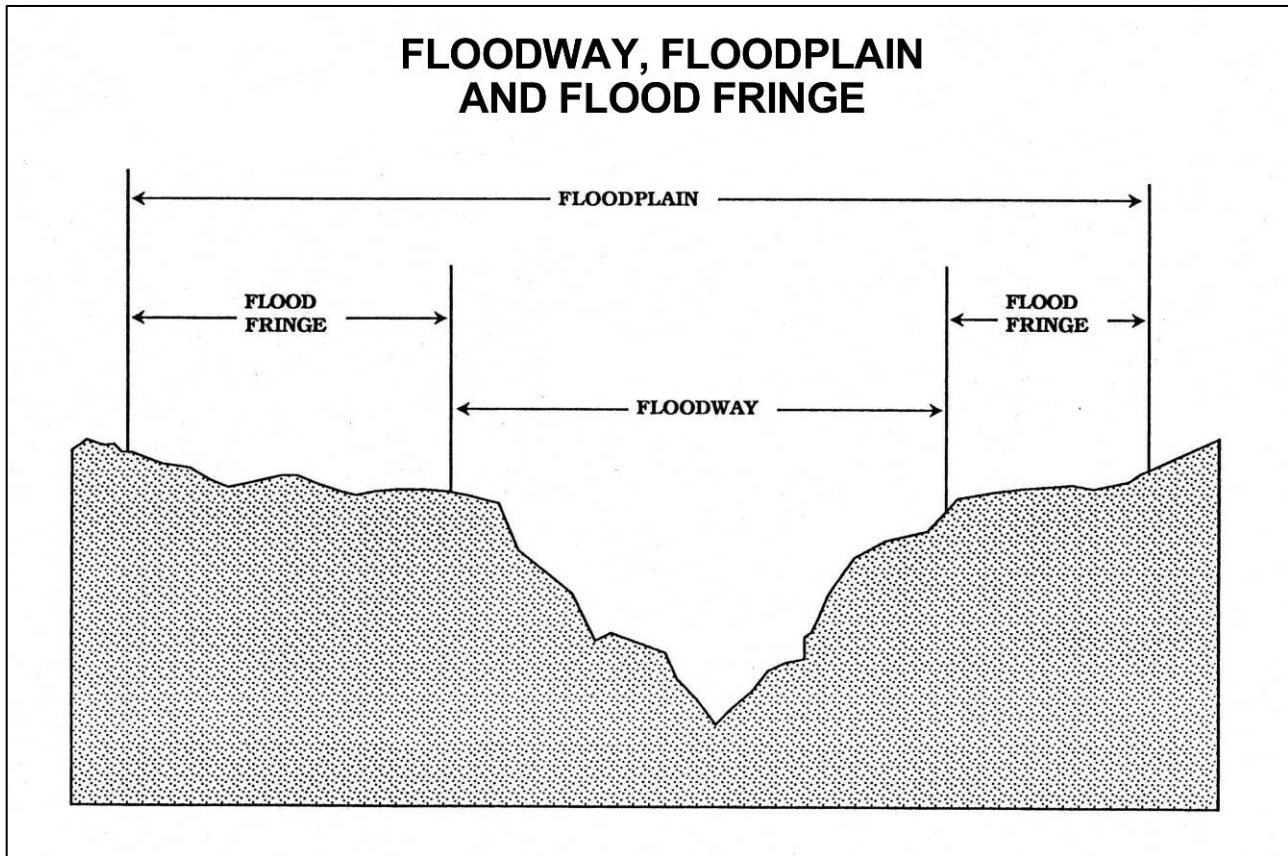
emergency preparedness measured, sandbagging, pumping, and temporary dikes, or levees.

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

### Section 15.02 Definitions

- A. **Area of Special Flood Hazard.** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
- B. **Base Flood.** The 100-year recurrence internal flood as shown on the Flood Profiles and the Flood Insurance Rate Map; that flood, having a one percent (1%) change of being equaled or exceeded in any given year, which defines the flood plain.
- C. **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- D. **Encroachment.** Any intrusion into the floodway that by itself or in conjunction with other intrusions could decrease the floodway's ability to carry and discharge the base flood or could increase the surface elevation of a base flood.
- E. **Existing Mobile Home Park or Mobile Home Subdivision.** A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.
- F. **Expansion to an Existing Mobile Home Park or Mobile Home Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

- G. **Flood or Flooding.** A general and temporary condition of inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff or surface waters from any source.
- H. **Flood Insurance Rate Map (FIRM).** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- I. **Flood Insurance Study.** The official report provided by the Federal Insurance Administration that included flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.
- J. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.0.10 foot.



- K. **New Mobile Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either

final site grading of the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

- L. **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

### **Section 15.03 Determination of Floodplain**

To secure this degree of safety from flooding and damages of flooding, the objectives of this chapter are to assure the retention of sufficient natural floodway area to convey flood flows; to designate a minimum flood protection elevation; and to reduce the height and violence of floods insofar as such are increased by any encroachment or flood obstruction.

- A. The Floodplain constitutes two overlays which are hereby established for and effective in the floodway and floodway fringe of the Township and which shall be subject to the regulations of this chapter. These overlays, the floodway overlay and the floodway fringe overlay, are detailed and delineated on the flood profile and Flood Insurance Rate Map (FIRM) contained in the Flood Insurance Study and are subject to the provisions of this chapter. These two overlays distinguish between:
1. The hazards to life and property associated with that portion of the floodplain required to carry and discharge the waters of a base flood (the floodway overlay); and
  2. The remaining portion of the floodplain that is subject to inundation during a base flood (the floodway fringe overlay).
- B. The regulations of this chapter shall be construed as being supplementary to the regulations imposed on the same lands by virtue of the land being part of a zoning district. It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

- C. It shall be the intent of this chapter to use the most current data available for identifying the floodplain, floodway, and floodway fringe. Such data may be supplied by the Michigan Department of Natural Resources, Federal Emergency Management Agency, or an approved technical institute or governmental agency. Considerations shall be given to an engineer-certified specific site survey and study which presents detailed elevation information which is not otherwise available.

**Section 15.04 Delineation of Floodway and Floodway Fringe Districts**

- A. The selection of the floodway overlay shall be based on the principle that the area chosen for the floodway must be sufficient to carry the waters of the base flood without increasing the water surface elevation at any point within the watercourse or an affected watercourse reach. This floodway overlay designation is established on the Flood Insurance Rate Map (FIRM).
- B. The landward boundary of the floodway fringe overlay shall be that of the base flood. The channelward boundary of the floodway fringe overlay shall be that of the abutting floodway.

**Section 15.05 Availability of Maps Delineating Floodplain**

- A. The Township shall make available and maintain information as to the flood plain which will provide descriptive data delineating the floodway and floodway fringe overlay boundaries along the major watercourses within the Township by which the location of individual properties can be determined in relation to the flood plain.
- B. To further facilitate the implementation of the Special Flood Hazard Overlay District Regulations, the landward boundary of the flood plain shall be delineated on the Zoning Map to provide notice that the properties within the flood plain are subject to qualifications and restrictions in addition to those of the underlying zoning district.
- C. Where a watercourse meanders through or extensively borders a given subdivision or other parcel of land resulting in varying flood elevations, the highest flood elevation affecting a given parcel of land may be used to determine a flood protection elevation for the entire parcel of subdivision.

**Section 15.06 All Uses in Flood Hazard Overlay Districts**

- A. **General Standards.** In all areas of the Flood Hazard Overlay District the following standards are required:
  - 1. **Anchoring.**



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

**2. Construction Materials and Methods.**

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

**3. Utilities.**

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

**4. Subdivision Proposals.**

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;

- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

**B. Specific Standards.** In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.03, Determination of Floodplain or Section 15.04, Delineation of Floodway and Floodway Fringe Districts, the following standards are required.

- 1. **Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- 2. **Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 15.09.A.
- 3. **Mobile Homes.**
  - a. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:

- (1). Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
  - (2). Adequate surface drainage and access for a hauler are provided; and,
  - (3). In the instance of elevation on pilings, that:
    - (a). Lots are large enough to permit steps,
    - (b). Piling foundations are placed in stable soil no more than ten feet apart, and
    - (c). Reinforcement is provided for pilings more than six feet above the ground level.
- b. The placement of mobile homes in the Floodway shall be prohibited unless placed in an existing mobile home park or mobile home subdivision.

**Section 15.07 Floodway Overlay District**

- A. All uses, including fill, new construction, substantial improvements, and other development shall not be permitted in the Floodway Overlay District unless it is demonstrated that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

If permitted, uses shall be based on the underlying zoning and are subject to the provisions of Section 15.06, and the standards listed below.

**B. Fill.**

1. A valid permit shall be obtained from the Michigan Water Resources Commission provided such fill will not cause an increase in flood heights.
2. Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

**C. Structures (temporary or permanent).**

1. Structures shall not be designed for human habitation unless satisfying those requirements of Section 194 of Public Act 288 of 1967, as amended.
2. Structures shall have a low flood-damage potential.
3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
  - b. So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.

**D. Storage of Material and Equipment.**

1. The storage or processing of materials that could be buoyant, flammable, explosive, or injurious to human, animal, or plant life during a flood event is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after flood warning.

E. No structure associated with a use in the Floodway Overlay District, including the supporting members of bridges and other public facilities crossing a watercourse, shall be permitted unless an engineering analysis by a registered engineer demonstrates that encroachment will not result in any increase in the water surface elevation during the base flood.

**Section 15.08 Floodway Fringe Overlay District**

This overlay district provides special regulations designed to reduce flood losses. All uses must meet the requirements of Section 15.06 in addition to those contained in the basic underlying zoning district.

**Section 15.09 Administration**

The Zoning Administrator shall ensure that all development within a Flood Hazard Overlay District shall comply with the standards of this ordinance and the requirements of the Federal

Insurance Administration pertaining to the Federal Flood Insurance program. The Zoning Administrator shall adhere to the following procedures:

- A. **Application for Special Permit.** Application for a zoning certificate in the Flood Hazard Overlay District shall be made to the Zoning Administrator and shall require the following, above and beyond any other material required for approval of the proposed development by this Ordinance:
1. The name, address and telephone number of the applicant, and of the owner of the property.
  2. An accurate legal description of the property.
  3. The existing use and proposed use and proposed development of the property and the zoning district in which the property is located.
  4. Two copies of a plot plan drawn to scale and showing: (if a site plan is required for the proposed development, the requirements for a site plan shall be followed (Chapter 22). However, the following information shall also be included on the required drawings.)
    - a. The shape and dimensions of the property.
    - b. The area of special flood hazard located on the property.
    - c. Locations and dimensions of existing structures and improvements.
    - d. Means for traffic access and provisions for parking.
    - e. Location and description of trees and shrubs.
    - f. Elevation in relation to mean sea level, of the lowest floor, including basement, of all structures.
    - g. Elevation in relation to mean sea level to which any structure has been flood proofed.
    - h. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 15.06.B.2.
    - i. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- j. Any additional information required by the Zoning Administrator to determine compliance with this Zoning Ordinance.

**B. Approval or Disapproval of a Special Permit.**

1. The Zoning Administrator shall not issue a zoning certificate until:
  - a. It has been determined that sites affected by the flood plain as designated by the Flood Insurance Study meet all the provisions of this chapter; or
  - b. In unnumbered A zones where FEMA has not provided data, the Township Engineer has determined based on data supplied by the applicant's engineer or architect that the proposed development will not adversely affect the flood-carrying capacity of the areas of special flood hazard. "Adversely affect" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood height at any point. The Township Engineer may require additional engineering data as part of the application in order to make such a determination.
2. Disapproval of an application for a zoning certificate shall be accompanied by written findings of fact by the Zoning Administrator explaining the reason for disapproval. An applicant may appeal the decision of the Zoning Administrator disapproving his application to the Zoning Board of Appeals. Notice of appeal shall be filed with the Zoning Administrator within fifteen days after the decision of the Zoning Administrator is mailed to the applicant at the address listed on the application.
3. Prior to issuing the zoning certificate, the Zoning Administrator shall be assured that all necessary permits have been received from those federal, state and local government agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required.

**C. Standards for Approval.**

1. **Standards for Approval.** In passing upon such applications, the Zoning Administrator or Building Inspector shall consider all relevant factors specified in other sections of this ordinance and:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other lands or downstream to the injury of others.

- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and flood-plain-management program for the area.
- j. The safety of access to the property in times of flood by emergency vehicles.
- k. The expected heights, velocity, duration, rate of rising and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this ordinance.

**D. Alteration of Watercourses.**

- 1. Notify adjacent communities and the Michigan Department of Natural Resources, Water Recourse Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- 2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

**E. Interpretation of Overlay Boundaries.**

Make interpretations, where needed, as to the exact location of the boundaries of special flood hazards when there appears to be a conflict between a mapped boundary and actual field conditions. Where a map boundary and elevation disagree, the elevations delineated

in the flood elevation profile shall prevail. The applicant may appeal the interpretation as per Section 15.10.

**Section 15.10 Appeals and Variances**

- A. **Appeals.** The Zoning Board of Appeals shall determine appeals from the decisions of the Zoning Administrator disapproving applications for zoning certificates based upon alleged errors in the application of the provisions of this chapter.
- B. **Variances.**
1. Applications for variances from the development standards of this chapter shall be filed for determination by the Zoning Board of Appeals pursuant to Chapter 25.
  2. No variance shall be granted unless the Zoning Board of Appeals determines the application complies with Section 25.04.
  3. No variance shall be granted by the Zoning Board of Appeals until it has considered all the following:
    - a. The danger that materials may be swept onto other land to the injury of others.
    - b. The danger to life and property due to flooding or erosion damage.
    - c. The susceptibility of the proposed development to flood damage and the effect of such damage on the owner.
    - d. The importance of the services provided by the proposed development to the Township.
    - e. The necessity to the development of a waterfront location, where applicable.
    - f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage.
    - g. The compatibility of the proposed use with existing and anticipated development.
    - h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.
    - i. The safety of access for vehicles to the property in times of flood.



- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
  - l. Whether the land proposed to be developed consists of less than one-half acre and is contiguous to and surrounded by lots with existing structures constructed below the base flood level. The granting of variances is more appropriate for such small tracts than for larger tracts.
- 4. No variance shall be granted by the Zoning Board of Appeals where the variance will result in increased flood heights, additional threats to public safety, extraordinary public expense of nuisances.
  - 5. The Zoning Board of Appeals shall grant the minimum variance from development standards of the chapter necessary to grant relief to the applicant consistent with the flood hazard to the area.
  - 6. No variance shall be granted by the Zoning Board of Appeals for land located within any designated floodway where the variance will result in any increase in flood levels during the base flood discharge.
  - 7. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - 8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**Section 15.11 Disclaimer of Liability**

- A. **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding

or flood damages. This ordinance shall not create liability on the part of Royalton Township or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **CHAPTER 16**

### **NON-CONFORMING LOTS, USES, AND STRUCTURES**

#### **Section 16.01 Purpose**

Non-conformities are lots, uses, structures, buildings, or site plans for developed sites which do not conform to one or more provisions or requirements of this Ordinance, but which were lawfully established prior to the date of adoption or amendment of this Ordinance. Such non-conformities are considered to be incompatible with the current or intended use of land, buildings or structures, in the district in which they are located. This section is intended to meet the objectives stated below by establishing regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of non-conformities, and specify the circumstances and conditions under which nonconformities shall be permitted.

The objectives of this Ordinance are to eliminate, or bring into compliance, lots, buildings, structures and uses which legally existed at the date of adoption of this Ordinance, but do not meet the current standards of this Ordinance. This Ordinance also has special provisions to permit certain non-conforming situations considered to be less harmful to continue under certain conditions, but to discourage their expansion, enlargement, or extension. The standards of this Article are intended to accomplish the following:

- A. Terminate and remove any use, building, accessory structure, or any combination thereof that was established after the effective date of this Ordinance and in violation of this Ordinance. Such uses, buildings or accessory structures are classified as illegal nonconformities and shall not receive any of the rights, privileges, or protection conferred by this Article for legal non-conforming situations.
- B. Eliminate non-conforming uses that are more intense than the uses permitted within the zoning district and are considered to be incompatible with permitted uses, or encourage their redevelopment into a more conforming use.
- C. Permit legal non-conforming buildings, structures or uses to remain until they are discontinued or removed, but to discourage their survival.
- D. Encourage the combination of contiguous non-conforming lots of record to create lots that conform to current standards, to avoid the public health, safety, and welfare problems associated with the over-crowding of land.
- E. Declare the legal conforming status of certain existing lots that were established before the Ordinance was created but may not satisfy the standards of this Ordinance. This shall aid in the financing and insurance administration of these properties.

### **Section 16.02 Applicability**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in 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, or upon which actual building construction has been diligently carried on and there is a valid building permit. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. To be applicable, construction must begin within 90 days of the effective date of an ordinance amendment and must be completed within one year. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved. In the event that progress on the construction ceases for a period of six months or more, then the use of the building and the building itself shall conform to the current standards of the zoning district within which it is located.

### **Section 16.03 Non-Conforming Uses of Land, Buildings, and Accessory Structures**

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use on open land, on a lot(s), in a building(s), or in an accessory structure(s) exists that is made non-conforming by this Ordinance or its amendments, such use may be continued, as it remains otherwise lawful, subject to the following provisions:

- A. **Expansions:** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the effective date of this Ordinance, but no such use shall be enlarged, expanded, or extended to occupy a greater area of land or greater floor area than was occupied at the effective date of this Ordinance.
- B. **Accessory uses and structures:** No new accessory use, building, or structure shall be established on a lot containing a nonconforming use.
- C. **Relocation:** The non-conforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this Ordinance.
- D. **Abandonment or discontinuance:** If such non-conforming use is abandoned or discontinued for any reason for a period of 12 months or more, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, except as noted below, such use shall not be re-established. Subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- E. **Special standards for single-family homes in non-residential districts:**

1. A single-family residential dwelling in a zoning district which does not permit such a use may be expanded to occupy the floor area necessary for living purposes subject to approval by the Zoning Board of Appeals.
  2. A single-family dwelling and its accessory structures, in a zoning district which does not permit such use may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident, or other natural disaster if approved by the Zoning Board of Appeals. Such approval requires a finding that the resulting building footprint and floor area will be the same size or smaller than that of the building before such change and in substantially the same location. Replacement of such non-conforming single-family building shall commence no sooner than receiving a valid building permit and within 12 months of the date of damage. Work shall be diligently pursued toward completion. The applicant may be required to provide the Township with evidence, visual or otherwise, to demonstrate to the satisfaction of the Zoning Administrator that work is being diligently pursued. Failure to commence replacement within 12 months or having a delay exceeding six months shall result in the loss of legal, non-conforming status unless good cause for either is accepted at a hearing before the Zoning Board of Appeals. At their discretion, the Township Board may waive application fees for any type of application or review.
- F. **Change in use:** Except for single-family dwellings as permitted above, a non-conforming use shall not be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. If no structural alterations are made, any non-conforming use of a building, or building and land in combination, may be changed to another non-conforming use if the Zoning Board of Appeals, either by general rule or by making findings in the specific case, finds the proposed use is more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- G. **Removal:** Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. The nonconforming use shall not be reestablished upon reconstruction of the structure, except as provided for below.
- H. **Replacement of a Non-conforming Use:** A non-conforming use, and the building and structures that contain it, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster. The replacement building shall be the same size or smaller than that of the building before and located in substantially the same location unless brought into conformance with Ordinance requirements. In this case, its use for the same purpose may be continued. Replacement shall commence no sooner than receiving a valid building permit and within 12 months of

the date of damage and work shall be diligently pursued toward completion. Failure to commence replacement or experiencing a delay of six (6) months or more shall result in the loss of legal, non-conforming status and the building or structure shall conform to the uses allowed in the zoning district it is located in, unless good cause for either is accepted at a hearing before the Zoning Board of Appeals.

- I. **Exceptions:** Any use for which a special exception, variance or Special Land Use permit has been granted as provided in this Ordinance shall not be deemed a non-conformity. Also, all uses and buildings engaged in commercial agricultural activities as of the effective date of this Ordinance shall be deemed a lawful and permitted use and shall be exempt from the nonconforming use provisions of this ordinance.

### **Section 16.04 Non-Conforming Lots of Record**

The following regulations shall apply to any non-conforming lot of record or non-conforming lot described in a deed or land contract executed and delivered prior to the effective date of this Ordinance or amendment thereto:

- A. **Use of Non-Conforming Lots:** Any non-conforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the lot is in conformance with all other applicable yard setback, minimum floor area, maximum height requirements, etc. for the district in which it is located (see item C below).
- B. **Variance to Area and Bulk Requirements:** If the use of a non-conforming lot requires a variation of the minimum floor area and bulk (minimum setback and maximum height) requirements, then such use shall be permitted only if a variance is granted by the Zoning Board of Appeals. (See item C below).
- C. To develop a non-conforming lot(s) under the provisions of paragraphs A and B of this section, the applicant is required to submit evidence that ownership of the lot was not under contiguous single ownership with other lots which could have been combined into a conforming or more conforming lot.
- D. **Non-conforming Contiguous Lots under the Same Ownership:** The following regulations shall apply to non-conforming contiguous lots under the same ownership.
1. If two or more lots or a combination of lots with contiguous frontage are or have been under single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the

requirements established for lot width and area, the lands involved shall be required to be combined to create lots that are conforming, or as close to conforming as possible, prior to receiving approval.

2. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance.
3. Any combination, in whole or in part, of non-conforming lots of record shall result in lots, that conform to the requirements of this ordinance or bring the non-conforming lots towards conformance to the maximum extent feasible.
4. Once any combination that creates a conforming lot occurs, the resulting lot shall not retain non-conforming lot of record status and will hereafter be required to comply with the lot requirements of this ordinance.

#### **Section 16.05 Non-conforming Buildings and Structures**

Where a lawful building or structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, landscape buffer, off-street parking, loading space, minimum setback, or other characteristics of the structure or its location on the lot, such building or structure may be continued provided it remains otherwise lawful, subject to the following provisions.

- A. **Permitted expansions:** An expansion (footprint or floor area) of a non-conforming building or structure shall be permitted on a conforming side when all of the following conditions exist:
  1. The entire building is dedicated to a conforming use.
  2. Only one (1) side of the building or structure does not conform to setback requirements.
  3. The expansion will conform to all setback and height requirements and will not increase the nonconformity.

Except as noted above, no non-conforming building or structure may be enlarged unless a variance is granted by the Zoning Board of Appeals.

- B. **Replacement of a non-conforming structure:** A non-conforming structure, and its accessory structures, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster. The replacement building shall

be the same size or smaller than that of the building before and located in substantially the same location unless brought into conformance with Ordinance requirements. Replacement of such a non-conforming structure shall commence no sooner than receiving a valid building permit and within 12 months of the date of damage and work shall be diligently pursued toward completion. Failure to commence replacement or experiencing a delay of six (6) months or more shall result in the loss of legal, non-conforming status unless good cause for the delay is accepted at a hearing before the Zoning Board of Appeals.

C. **Relocation of a non-conforming building or structure:** Should any non-conforming building or structure be relocated or removed for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.

D. **Repairs and Alterations:**

1. Normal maintenance of a nonconforming building or a building containing a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations that do not extend or intensify the nonconforming use or structure. The value of the improvements shall not exceed 50% of the market value of the structure over a 12 month period.

2. No structural alteration shall be made in a nonconforming building or a structure having a nonconforming use. A structural alteration shall be any change other than incidental repairs that would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations. The following exceptions shall apply:

a. When the change is required by law.

b. When the alteration will bring the situation into conformance (or reduce the nonconformity) or eliminate the nonconforming use.

c. When a building in a residential district containing a residential nonconforming use may be altered in a way to improve livability, provided the alteration does not increase the number of dwelling units or the bulk of the building.

d. If the Zoning Board of Appeals approves the alteration, which exceeds 50% of the market value of the structure.

E. **Elimination of nonconformity:** In the event a non-conforming situation is removed, the corresponding section of the building or structure shall thereafter conform.



- F. **Market Value:** For the purpose of this Article, Market Value shall be determined by an acceptable independent appraisal provided by the applicant. The Township Assessor shall review the appraisal. The value of the repairs of improvements shall be based on a written estimate from a licensed contractor provided by the applicant. This estimate shall be reviewed by the Township Building Inspector.

#### **Section 16.06 Recording of Non-Conforming Uses and Structures**

Failure on the part of a property owner to provide the Township with necessary information to determine legal non-conforming status may result in denial of required or requested permits.

## CHAPTER 17 GENERAL PROVISIONS

### Section 17.01 Purpose

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

### Section 17.02 Interpretation

- A. **Minimum Requirements.** The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.
- B. **Relationship with Other Laws.** Where the conditions imposed by any provision of this Ordinance upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or any other law, ordinance, or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.
- C. **Effect on Existing Agreements.** This Ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

### Section 17.03 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 Municipal or other public election.

### Section 17.04 Disconnected Territory

Any additions to the unincorporated area of Royalton Township, resulting from disconnection by municipalities or otherwise, shall be automatically classified in the A, Agricultural District, until such time as the Royalton Township Board of Trustees designates the permitted use of land in accordance with the administrative provisions of this Ordinance.

**Section 17.05      General Development Standards**

- A.    **Division of Zoning Lots.** No improved zoning lot shall hereafter be divided into two (2) or more zoning lots unless all improved zoning lots resulting from each such division shall conform to all the applicable area and width requirements of the zoning district in which the property is located. However, with respect to the re-subdivision of improved zoning lots in the C, Commercial districts, side yard requirements shall not apply between attached buildings.
  
- B.    **Required Yards for Existing Buildings.** No yards now or hereafter provided for a building existing on the effective date of this Ordinance shall subsequently be reduced below, or further reduced below if already less than, the minimum yard requirements of this Ordinance for equivalent new construction.
  
- C.    **Access to Public or Approved Private Roads.** Except as otherwise provided for in this Ordinance, every residential building shall be constructed or erected upon a lot or parcel of land which directly abuts upon a public road or an approved private road, unless a permanent easement of access to a public road or an approved private road no less than sixty-six (66) feet in width and a drivable surface of at least 20 feet in width was of record prior to the adoption of this Ordinance, and except as provided herein for Planned Unit Developments.
  
- D.    **Health Department Approval.** No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations governing waste and sewage disposal of Berrien County. Lots, parcels, or units served by public sewer and/or water facilities shall also be approved by the appropriate utility board.

**Section 17.06      Performance Standards**

No activity, operation, or use shall be permitted on any property which by reason of the emission of odor, fumes, smoke, vibration, radiation, noise or disposal of waste is deleterious to other permitted activities in the zoning district or is obnoxious or offensive to uses permitted in neighboring districts, or is harmful to the general health, safety or welfare of the community.

- A.    **Vibration.** Any process or equipment which produces intense earth-shaking vibrations such as created by heavy drop forges or heavy hydraulic surges, shall be set back at least five hundred (500) feet from the property boundaries on all sides, unless adjacent to property in the I-1, Industrial district. Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from this standard as well. However, in no case shall such vibrations be allowed to create a public nuisance or hazard beyond the property boundaries.

- B. **Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.** The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, or other applicable state or federal regulations. The emission of smoke or particulate matter in such a manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance. This requirement shall not pertain to lawfully operated farming practices that are being conducted in accordance with state GAAMP requirements and as otherwise protected by the state Right to Farm Act.
- C. **Odor.** Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are readily detectable at any point along the boundaries of the property line, produce a public nuisance or hazard to adjoining property, or would be detrimental to human, plant, or animal life. This requirement shall not pertain to lawfully operated farming practices that are being conducted in accordance with state GAAMP requirements and as otherwise protected by the state Right to Farm Act.
- D. **Glare and Heat.** Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half ( $\frac{1}{2}$ ) footcandle when measured at any point along the property line of the site on which the operation is located. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
- E. **Sewage Wastes and Water Pollution.** Sewage disposal and water pollution shall be subject to the standards and regulations established by federal, state, county and local regulatory agencies, including the Michigan Department of Public Health, the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality, including Michigan Public Act 451 of 1994, as amended, the Berrien County Health Department, and the U. S. Environmental Protection Agency.
- F. **Gases and Explosive Materials.** The escape or emission of any gas which is injurious or destructive to life or property, or which is explosive, is prohibited. Activities involving the storage or manufacture of products which decompose by detonation are not permitted unless approved through the site plan or special land use approval process. If approved, such materials must be stored or manufactured more than two hundred (200) feet from the boundary of any other district. Materials which produce flammable or explosive vapors or gases under ordinary weather temperatures must be stored, used, and/or manufactured no less than six hundred (600) feet from adjacent zoning districts. Gaseous emissions shall be subject to regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, the Federal Clean Air Act of 1963, as amended, and any other applicable state or federal regulations.

- G. **Electromagnetic Radiation and Radio Transmission.** Electronic equipment required in an industrial, commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.
- H. **Radioactive Materials.** Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by federal agencies that have jurisdiction.
- I. **Noise.**
1. At no point shall any individual or existing residential use in the A, E-1, R-1, R-2, or MH districts produce sound levels that exceed the A scale levels (slow response) of 55 dB(A).
  2. At no point shall the sound pressure level of any individual operation operating in a commercial or industrial zoning district exceed the A scale levels (slow response) of 62 dB(A).
  3. Between the hours of 10:00 pm and 7:00 am, the maximum permitted sound pressure level shall be reduced by 7 dB.
  4. Construction shall be permitted between the hours of 6:00 am and 9:00 pm Monday through Friday and between 8:00 am and 8:00 pm Saturday and Sunday. During these periods, construction tool operation shall be exempt from the maximum noise level standards of this Section. Otherwise, construction tool operation shall be subject to the maximum noise level standards of this Section.
  5. The following items shall be exempt from this section: emergency vehicles and emergency work, snowplowing and street cleaning, other public work, agricultural uses, church bells and chimes, lawn care and maintenance during daylight hours, licensed vehicles being operated on a road or street, or trains and air craft.
  6. Uses and activities must also satisfy the Township's Anti-Noise and Public Nuisance Ordinance.

### **Section 17.07 Temporary Uses**

- A. **Permitted Temporary Buildings and Uses.** The following buildings and uses are permitted subject to meeting all of the following requirements of this section:

1. **Temporary Construction Structures.** A temporary building and/or structure used for storage of equipment and construction offices may be used only during construction of a permanent structure or structures that have been issued a building permit. In instances where the temporary structure is serving one site or one building, the temporary structure shall be removed from the site prior to issuance of a final notice of approval from the Zoning Administrator. Where the temporary structure is serving multiple building sites, the temporary structure shall be removed prior to the final approval of the final structure within the development. Temporary Construction Structures shall be subject to the following additional conditions:
  - a. Temporary construction structures must be setback at least 10 feet from all property lines except that no temporary construction structures shall be permitted in the front yard.
  - b. The property shall be well maintained and free of debris. Litter shall be kept in an approved, enclosed container.
  
2. **Temporary Office for Sales / Retail in a Residential Development (Model Home).** In approved residential developments, no more than two (2) temporary offices for the sale or rental of the properties within that development shall be permitted. The following conditions shall apply to these structures:
  - a. An individual company or entity may only operate one (1) such temporary structure in a single development. The same company cannot operate both permitted temporary offices within a single development.
  - b. The method for accommodating parking demand without negatively impacting adjacent properties shall be demonstrated. This may include the provision of off-street parking on-site.
  - c. The structure shall be equal in appearance to the surrounding residences and shall be able to be converted to residential use immediately upon cessation of the temporary use.
  - d. Signage shall be limited to one ground sign with a maximum size of 32 square feet and a maximum height of eight (8) feet measured from the natural grade elevation. If illuminated, the light shall be directed so as not to shine onto adjacent properties.
  - e. The temporary office shall be converted to a permanent residence no less than one (1) year following the completion of the construction of the final home in the development.

3. **Special Events and Other Temporary Uses.** The Township Zoning Administrator may grant temporary use of land and structures for special events and other temporary uses. Any event lasting longer than 36 hours or expecting more than 250 people in attendance at any one point in time shall require a temporary use permit. The following conditions apply to specific temporary uses:
- a. The maximum duration of any individual event shall be ten (10) days. However, the following specific exceptions apply:
    - (1) Christmas tree sales lots are permitted to last up to 45 days.
    - (2) Events involving overnight camping shall be limited to three (3) days.
  - b. The setback from any residential property shall be 100 feet.
  - c. Events that extend beyond one calendar day may require Township Board approval as determined by the Zoning Administrator.
  - d. The Zoning Administrator/Township Board may require an Impact Assessment for temporary special events. The assessment must have a focus on traffic impacts created by the event and the impacts of that event on the level of service of surrounding roads. The assessment may also evaluate impacts on services, utilities, public safety, drainage, and/or the environment as necessary. The assessment must be completed by a licensed, certified Engineer.
  - e. Events involving outdoor sales shall not cover more than 50% of the width of any sidewalks.
  - f. If the special event is occurring in a parking lot, a sufficient number of parking spaces shall remain to meet the existing zoning requirements for that district.
  - g. Shall satisfy all other requirements of Article 12, “Specific Requirements”, of the Township Outdoor Assembly Ordinance.
  - h. Within 24 hours of completion of the special event, litter, stumps, branches, and other debris and evidence of the event shall be completely removed from site.
  - i. See also Section 18.20, Outdoor Seasonal Events, for additional standards that apply to temporary uses that occur on an annual basis.

- j. Gatherings of over five hundred (500) persons shall be subject to the Township Outdoor Assembly Ordinance.

B. **Temporary Zoning Permit.** A temporary building or use shall require issuance of a zoning permit from the Zoning Administrator under Section 25.06 of the Zoning Ordinance. The Township Zoning Administrator may also require the applicant to submit a site plan, including those elements of Section 22.03 that the Zoning Administrator determines to be necessary for a thorough review. Applications shall be accompanied by payment of a fee in accordance with the duly adopted schedule of fees to cover costs of processing the application.

The Township Zoning Administrator shall make a determination that the location of any temporary buildings or uses will not adversely affect adjoining properties, nor adversely affect public health, safety, and the general welfare of the Township. The permit shall establish a reasonable date for removal of the temporary structure and/or use, and shall set forth other conditions of permission as deemed necessary by the Zoning Administrator. Any temporary buildings shall be placed so as to conform to all yard requirements of the zoning district in which it is located, unless otherwise indicated.

C. **Conditions.** In order to protect the adjacent property owners and citizens of the Township, the Township shall impose conditions and restrictions on all temporary buildings and uses to insure the following:

1. Adequate off-street parking shall be provided.
2. The applicant shall specify the exact duration of the temporary use.
3. Electrical and utility connections shall be approved by the Township Building Official.
4. Adequate site and surrounding area clean up shall be done following removal of the temporary use or shelter.
5. Adequate facilities shall be provided to handle all of the human waste expected to be generated.
6. Closure of commercial or similar activity shall be from midnight to 9:00 a.m.
7. Security personnel shall be employed as are necessary and sufficient for the adequate security and protection of the maximum number of attendees, as required in the Township Outdoor Assembly Ordinance.
8. There will be no gambling or use of alcohol or controlled substances contrary to law.



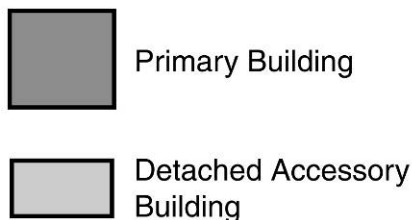
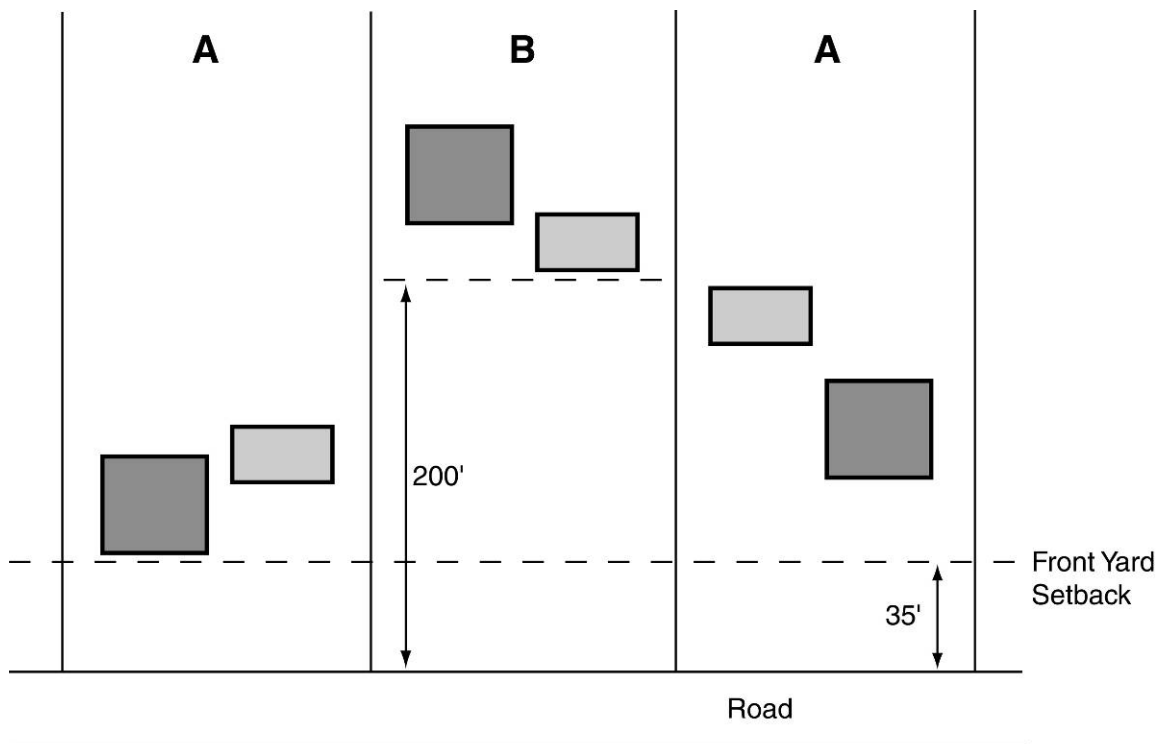
9. There will be no generation of bright lights, loud noises, or strong odors at a level or intensity sufficient to create a nuisance to adjacent properties.
- D. **Performance Guarantee.** The Township may require a deposit by the applicant with the Township Clerk in the form of a certified check, cash, or a surety bond in an amount sufficient to hold the Township free of all liabilities incident to the operation of a temporary building or use, to indemnify any adjoining land owner for any damages resulting from the operation of such activity and to ensure proper and complete clean-up after temporary use and removal of all temporary buildings. The Zoning Administrator shall estimate the amount of such bond, cash, or check. The Township shall rebate to the applicant upon satisfactory removal of all temporary buildings and uses. Such rebate shall be based upon the report and recommendation of the Zoning Administrator. The Zoning Administrator may refer the application to the Township Engineer for review of the proposed improvements and recommendations of performance guarantees.
- E. **Extensions.** At the conclusion of the agreed upon duration of the temporary use, if the applicant still has need for the temporary use, then one (1) extension may be granted for up to fifty percent (50%) of the original agreed upon duration. An extension must be requested prior to the expiration of the temporary use permit. The Zoning Administrator may grant an extension if there is a legitimate explanation for why the extension is needed and evidence is presented supporting that the temporary use will be complete or will be able to cease by the conclusion of the extension.
- F. **Removal.** Temporary structures or uses other than temporary construction buildings shall be removed within two (2) days after expiration of the permit, or the Zoning Administrator may use the performance guarantee to enact such removal.

### **Section 17.08 Accessory Uses and Structures**

The following shall apply to all new accessory structures in the Township (including, but not limited to attached or detached garages, sheds, and similar structures), and to alterations, renovations, expansions, or other work that includes exterior changes to existing structures:

- A. **Attached and Detached Structures.** Authorized accessory buildings may be erected as part of the principal building; may be connected to the principal building by a roofed porch, breezeway, portico, covered colonnade, or similar structure; or may be completely detached from the principal building.
1. When erected as an integral part of the permitted principal building or connected to the principal building, the accessory structure shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. This includes all setback requirements.
  2. A structure used to connect an accessory building to a principal building must meet all Code requirements.

3. The distance between a detached accessory building and any principal building shall not be less than 10 feet.
4. Detached structures shall not be erected or expanded in required side or rear yards, unless otherwise permitted in this Section 17.09.
5. Accessory structures shall be prohibited in the front yard, which is any point closer to the front lot line than the primary building (example A in the illustration below). The exception shall be in the Agricultural district on lots where the primary building is located more than 200 feet from the front lot line (example B in the illustration below). Here detached accessory structures may be constructed in the front yard, provided they remain no less than 200 feet from the front lot line.



Detached Accessory Building must be located behind the portion of the Primary Building that is closest to the front lot line (A) or setback 200' from the front lot line, (B) whichever is less.

- B. **Permit Required.** A Zoning Permit is required for all structures with a gross floor area of 200 square feet or greater. In order to receive a permit from the Zoning Administrator, the requirements of this section must be satisfied.
- C. **Exempt Properties.** The regulations in this section do not apply to agricultural uses on parcels ten (10) acres or larger, except for the setback requirements. [Amended, 3/8/2010]
- D. **Maximum Permitted.** There shall be no more than two (2) detached accessory structures permitted on any lot in the E-1, R-1, and R-2 districts, unless otherwise stated herein.
- E. **Maximum Height.** A detached accessory structure shall have a maximum building height, measured from the existing grade at the base of the structure to the tallest point on the structure, of not more than 10 feet for a flat roof structure or 20 feet for a gable, mansard, or gambrel roof.
- F. **Lot Coverage.** Detached accessory structures permitted in the rear yard shall not cover more than 30 percent of the total rear yard area.
- G. **Waterfront Yards.** Accessory structures in waterfront yards shall be subject to the provisions of Section 17.22, Waterfront Yards.
- H. **Maximum Area.** If the lot area of the subject parcel does not exceed one (1) acre, the total area of all detached accessory structures located on a property shall not exceed the ground floor area of the primary building.
- I. **Materials and Design.** The building materials and design of any accessory structure shall be similar to that of the primary building on the lot, and shall be in accordance with the purpose of the district where it is located.
- J. **Carports.** Carports and other temporary or permanent covered and unenclosed vehicle shelters shall be considered accessory structures, and shall comply with the requirements of this article.
- K. **Accessory Apartments and Efficiency Apartments.** Accessory Apartments and Efficiency Apartments located above or within accessory structures shall be prohibited.
- L. **Timing of Construction.** No accessory structure shall be constructed on a parcel unless there is a primary building or structure already existing on the same parcel of land.
- M. **Accessory Use.** Detached accessory buildings in residential districts (A, E-1, R-1, and R-2) shall not be used for dwelling units, for any business, profession, trade, occupation, or storage space offered for rent. Exceptions are accessory buildings on parcels of an agriculturally permitted use as exempted in paragraph C above.

- N. **Same Lot as Primary Use.** Accessory structures are permitted only in conjunction with, incidental to, and on the same lot as a primary structure, which is allowable in the particular zoning district.
- O. **Clear Vision Corner.** At street intersections and where driveways meet streets, a clear vision area shall be maintained free from visibility obstructions, in accordance with Section 17.17.
- P. **Specific Accessory Structure or Use Requirements.** The following details some of the specific requirements for particular accessory structures or uses.
1. Garages or carports, attached – if attached, they must meet all of the minimum setback requirements of the primary structure.
  2. Garages or carports, detached – if detached, they may be located no closer than five (5) feet of the adjacent side or rear property lines and may not encroach towards the front property line beyond the closest point of the primary building.
  3. Sheds, gazebos, storage buildings, pool houses, and other similar structures - they may be located no closer than five (5) feet of the adjacent side or rear property lines and may not encroach towards the front property line beyond the closest point of the primary building.
  4. Accessory buildings designed for housing livestock or fowl, or for other agricultural uses, shall be located at least 100 feet from any property line. [Amended, 3/8/2010]

### **Section 17.09 Projections into Yards, Porches, and Decks**

The following shall apply to all buildings and structures, whether temporary or permanent.

- A. Terraces and patios may project into a required yard provided:
1. That such structures are unroofed and without walls or other continuous enclosure;
  2. That the elevation of such structures is no more than nine (9) inches above the existing grade;
  3. That no such structure shall be permitted nearer than five (5) feet to any rear or side lot line or nearer than twenty (20) feet to any front lot line;

4. That such areas and structures may have open railings or fences not exceeding three (3) feet in height;
  5. That such structures may have noncontinuous windbreaks, visual screens, or walls not exceeding six (6) feet in height in a rear or side yard, or three (3) feet in height in a front yard, and not enclosing more than one-half the perimeter of said terrace, patio, or similar structure, except where not permitted by this Ordinance;
  6. That such structures shall be included in the calculations of maximum lot coverage.
- B. Decks greater than nine (9) inches above the existing grade shall be considered structures and shall satisfy all minimum setback requirements.
  - C. Awnings or canopies, bay windows, eaves and gutters, window mounted air conditioners, balconies, and attached chimneys may project into any required yard a maximum of three (3) feet.
  - D. Belt courses, sills, pilasters, cornices, and similar ornamental features may project into any required yard a maximum of 18 inches.
  - E. Ground mounted air conditioning compressors, gas tanks not exceeding fifty (50) gallon capacity, and other similar equipment must meet front and side yard setback requirements. They are permitted as obstructions in the rear yard but must remain a minimum of ten (10) feet from the adjacent property.
  - F. Unenclosed and unroofed fire escapes, outside enclosed or unenclosed stairways, and excavated stairways may project into a required front or rear yard a maximum of five (5) feet or into a required side yard a maximum of three and one half (3½) feet.
  - G. Access drives may be placed in the required front, side, or rear yards so as to provide access to rear yards or accessory or attached structures. Further, any walk or other pavement serving a like function shall be permitted in any required yard, providing the pavement is no higher than nine (9) inches above grade.
  - H. Stoops or steps must lead to an exterior entrance to a building and shall be no closer than five (5) feet to any property line and be no greater in size than necessary to provide access to the house. A wheelchair ramp required for compliance with the Americans with Disabilities Act may be constructed in a required yard space provided the ramp is the minimum size required and not within five (5) feet of any other property line.
  - I. Tennis courts, basketball courts, and similar areas shall be permitted in a required side or rear yard but shall maintain a minimum of five (5) feet from adjacent properties.

**Section 17.10 Principal Building on a Lot**

A lot or parcel shall not be devoted to more than one (1) principal use, or contain more than one (1) principal building; except for groups of apartments, retail, industrial or agricultural buildings which are determined by the Zoning Administrator to be a principal use collectively, based on the following considerations:

- A. individual buildings share common parking areas;
- B. access to the buildings/uses is provided via shared access drives or streets;
- C. buildings are under single ownership;
- D. individual activities support one another (such as auto dealership/vehicle repair or convenience store/restaurant/gas station);
- E. buildings are architecturally consistent and compatible.

**Section 17.11 Signs**

[Amended 3/8/2010]

A. **Definitions.**

- 1. **On-premises sign.** A sign which contains a message related to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where the sign is located.
- 2. **Off-premises sign.** A sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where the sign is located. A “billboard” is a type of off-premises sign.
- 3. **Premises.** A lot as otherwise defined in this Ordinance.
- 4. **Temporary sign.** A sign not constructed or intended for long-term use. Examples of temporary signs include signs that announce a coming attraction, a new building under construction, a community or civic project, or other special events that occur for a limited period of time.
- 5. **Political signs.** A sign commenting on the election or appointment of a person or an issue or matter to be voted upon by a public body.
- 6. **Billboard.** An off-premises sign 20 square feet or larger.

7. **Identifying Sign.** Any structure on the same premises it identifies which serves only to tell the name or use of any public or semi-public building or recreation space, club, lodge, church, or institution; only to tell the name or address of an apartment house, hotel, or motels; or only to inform the public as to the use of a parking lot.
  8. **Name Plate.** A structure affixed flat against the wall of a building that serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building
  9. **Real Estate Sign.** Any temporary structure used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.
  10. **Ground sign.** A sign not attached to a building or wall which is supported by one or more poles or braces or which rests on the ground or on a foundation resting on the ground, the bottom of which is no more than 24 inches above the finished grade and the pole or braces are at least 50 percent of the width of the sign.
  11. **Wall sign.** A sign attached to a wall and not projecting away from the wall more than 12 inches.
  12. **Pylon sign.** A ground sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles or braces, which are less than 50 percent of the width of the sign. A pole sign is an example of a pylon sign.
- B. **Measurement of Sign Area.** The total sign area is to be expressed in square feet and shall be computed as herein set forth and permitted in the “Schedule of Sign Regulations” attached to and made a part of this code.
1. Single-face sign total area shall be computed as the number of square feet within lines drawn at the outer perimeter of a sign forming any single and/or combination of geometric shapes, such as a square, rectangle, triangle or circle encompassing the extreme limits of an individual letter(s), word(s), messages(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
  2. Double-face signs having two (2) faces of equal size arranged and/or positioned back to back and parallel or with the faces at an interior angle of not more than thirty (30) degrees in the plan or vertical view; the area of the sign shall be computed as one-half (1/2) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.

C. **Sign Permits.**

1. **Permits.** It shall be unlawful for any person to erect, alter, or structurally change a sign or other advertising structure, unless specifically exempted by this Article, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, which shall be established by the Township Board.
  
2. **Applications.** Application for a sign permit shall be made upon forms provided by the Zoning Administrator. The following information shall be required:
  - a. Name, address, and telephone number of the applicant.
  - b. Location of the building, structure, or lot on which the sign is to be attached or erected.
  - c. Position of the sign in relation to nearby buildings, structures, and property lines.
  - d. Plans showing the dimension, lettering style, color, materials, method of construction, method of illumination, and method of attachment to the building or in the ground.
  - e. Written consent of the owner and/or lessee of the premises upon which the sign is to be erected.
  - f. Other information required by the Zoning Administrator to make a determination that the sign is in compliance with applicable laws and regulations.
  
3. **Review of Application**
  - a. **Planning Commission Review.** Sign permit applications in conjunction with the proposed construction of a new building or addition to an existing building requiring site plan review shall be reviewed by the Planning Commission as part of the required site plan review. Proposed signs must be shown on the site plan.
  - b. **Zoning Administrator Review.** Unless otherwise specified herein, the Zoning Administrator shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.



4. **Removal Agreement or Bond.** The Planning Commission or Zoning Administrator may require a performance guarantee to guarantee the future removal of a sign.
5. **Permit Issuance.** Following a review of a sign application by the Planning Commission or the Zoning Administrator as appropriate, the Zoning Administrator shall have the authority to issue a sign permit.
6. **Exceptions.** A new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where a sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for those signs listed in subsection D, Exempt Signs.

**D. Signs Exempt from Permitting.** The following signs are exempt from Sign Regulations:

1. Signs having an area of not more than three (3) square feet each, the message of which is limited to warning of any danger, prohibiting trespassing, or prohibiting hunting within the Township;
2. Signs no more than three (3) square feet prohibiting or regulating the use of property or traveling or parking thereon;
3. Signs designating parking area entrances or exits, limited to one (1) sign for each exit or entrance and a maximum size of two (2) square feet each;
4. Real Estate signs advertising a single or multi-family residence for sale or rent, allowable only on the specific property being advertised and limited to twelve (12) square feet or less in area, one (1) sign per street frontage, and setback eight (8) feet from any adjacent property;
4. Real estate signs advertising the sale, rent, or lease of non residential, limited to one (1) sign per property, a maximum size of 32 square feet, and a setback of 25 feet from any property line unless attached to the building;
5. Signs located on motor vehicles or trailers bearing current license plates which are traveling or lawfully parked upon public highways, or lawfully parked upon any other premises where the primary purpose of such parking is not the display of any sign and where the number of vehicles bearing a sign or signs of any one advertiser does not exceed one (1). This shall not prohibit an approved commercial use from storing its vehicles in an approved location in accordance with the requirements of this Ordinance;

6. Political signs advocating or opposing a candidate for office or a position on an issue to be determined at an election. All election signs shall be located at least 100 feet from any entrance to a polling place; shall not exceed nine (9) square feet in size; shall be located on private property (with the permission of the property owner); shall not be located as to create a visual obstruction for pedestrian or vehicular traffic; and shall be removed within fourteen (14) days after the election at which the candidacy or issue has been decided upon.
7. Governmental use signs erected by the governmental agencies to designate historical sites, rules or regulations, parks or recreational areas, other public spaces, or government buildings. Signs designating rules and regulations are limited to a maximum size of nine (9) square feet and shall be limited to one (1) sign per parking area or entrance;
8. Highway directional signs and markers, made and installed in accordance with the specifications of Berrien County Road Commission or the Michigan Department of Transportation announcing the location of or directing traffic to given locations including service areas (automobile, food, lodging), public and quasi-public information signs, businesses or commercial districts, tourist information signs, or public safety signs;
9. Historic signs designating sites recognized by the State Historical Commission as Centennial Farms and Historic Landmarks;
10. Essential service signs denoting utility lines, railroad lines, hazards, and precautions;
11. Memorial signs or tablets which are either cut into the face of a masonry surface or constructed of bronze or other incombustible material, when located flat on the face of a building and no greater than six (6) square feet in size;
12. Special decorative displays or signs used for holidays, public demonstrations, or promotion of civic welfare or charitable purposes;

**E. General Provisions.**

1. **Restrictions on Movement.** It is prohibited to erect or maintain any sign, which moves or has any visible moving or animated parts or image (except a cloth flag moved only by natural wind), whether movement is caused by machinery, electronics, or otherwise, including swinging signs.
2. **Illumination.** It is prohibited to erect or maintain any illumination sign where the light source moves, flashes, is not of constant intensity and color, where any light bulb can shine directly into the eyes of any occupant of any vehicle traveling upon any highway, driveway, or parking areas or into any window or any residence

within 200 feet, or where the illumination interferes with the visibility or readability of any traffic sign or device. The source of illumination shall not be visible from the ground. Where possible, a sign shall be internally illuminated, unless otherwise indicated in this Ordinance/. Signs placed by public authorities for public safety or circulation shall be exempt from this requirement.

3. **Exceptions.** Paragraphs 1 and 2 above shall not be applied to prevent the erection of maintenance of holiday lights each year.
4. **Changeable Copy.** Signs with an electronic or digital screen for changeable copy material shall change messages no more often than once every four (4) seconds so as not to appear as flashing.
5. **Signs Projecting Over Public Property.** Unless otherwise permitted below, no signs shall project beyond the property line into the public right of way unless placed there by the proper public authority. Signs placed upon a public right-of-way contrary to the provisions of this Ordinance may be removed by the Zoning Administrator without notice.
6. **Permission of Owner or Occupant.** It is unlawful to erect or maintain any sign on any property, public or private, without the consent of the owner or occupant thereof.
7. **Construction.** All signs shall be securely constructed in conformance with applicable building, fire, and electrical codes and standards of this Article. Wood products shall be treated to prevent deterioration. Letters, figures, and characters shall be safely and securely attached to the sign structure. All signs shall have a surface or facing of noncombustible material. All signs shall be attached by means of metal anchors, bolts or expansion screws, and in no case shall any sign be secured with wire, strips of wood, or nails.
8. **Maintenance.** All signs, sign frames, sign copy areas, panels, structural elements, lamps and electrical hardware shall be maintained in good repair and working order, so as to present a neat and orderly appearance. Non-galvanized or corrosion-resistant materials shall be painted when necessary to prevent corrosion.
9. **Clear Vision Triangle.** All signs, including those not requiring a permit, shall be located and constructed in accordance with the requirements of Section 17.18, Unobstructed View Triangle.
10. **Mobile Signs.** Unless otherwise permitted in this Ordinance, all mobile signs are prohibited. Mobile signs erected contrary to the provisions of this Ordinance may be removed by the Zoning Administrator without notice.

11. **Pylon Signs.** Unless otherwise permitted in this Ordinance, pylon signs are prohibited.
12. **Substitution.** Notwithstanding anything in this ordinance to the contrary, noncommercial copy may be substituted for commercial copy on any lawful sign structure.

**F. District Regulations.**

**1. Signs Permitted in the A (Agricultural) District.**

- a. For commercial and industrial uses in the A district, on premises ground or wall signs are permitted having an area not exceeding one (1) square foot for each 10 feet of road frontage with a maximum of 48 square feet for each sign. Signs permitted by this section shall be approved as a part of the special use permit or site plan review. The sign shall be setback 15 feet from the side property line and five (5) feet from the front property line (road right of way). The maximum height for a ground sign shall be six (6) feet.
- b. Signs advertising the sale of agricultural products grown or produced on the property or the use of particular seeds or products, provided that no such sign exceeds 24 square feet in area or six (6) feet in height. No sign shall be closer than five (5) feet to the property line.
- c. Uses shall be limited to one (1) ground sign and one (1) wall sign per street frontage. If the frontage exceeds 1000 feet, a second ground sign shall be permitted.

**2. Signs Permitted in the E-1, R-1, R-2, R-3 and MH districts.**

- a. For one and two family dwellings, there shall be not more than one (1) name-plate, not exceeding one (1) square foot in area for each dwelling unit, indicating the name or address of the occupant, or a permitted occupation.
- b. Up to two (2) on premises ground signs identifying each subdivision, multiple family complex or mobile home park per vehicle entrance, having an area not exceeding 20 square feet and a height not exceeding six (6) feet is permitted. The signs must be largely similar in design and size and shall not be located on the same side of the entrance intersection as each other, nor shall they both be located in a boulevard island. Such signs shall be approved during the review of the development.

- c. Construction sign denoting architects, engineers, contractors, financiers, and other professionals involved in a project during development of a subdivision or other property for a period not exceeding two (2) years or until 50% of the lots or units are sold and/or leased, whichever comes first. One (1) such ground sign shall be permitted, having an area not exceeding 32 square feet and a height not exceeding eight (8) feet is permitted in the subdivision. Signs permitted by this section shall be located so as not to block visibility of passing or turning motorists.
  - d. Churches, schools and buildings housing governmental functions and utilities of the Township, County, or State or any subdivision thereof, are permitted to erect one (1) ground sign not to exceed 16 square feet in area, an overall height of six (6) feet, or a minimum setback of eight (8) feet from any adjacent property. If the property is located on a corner, it shall be permitted one (1) such sign per street frontage. The area of changeable copy shall not exceed 50% of the area of the sign face. These entities are also permitted to have one (1) wall sign per road frontage with a maximum size of 20 square feet. The height of the wall sign shall not exceed the first story of the structure, or 15 feet, whichever is lower.
3. **Signs Permitted in the C-1, C-2, C-3 and I-1 Districts.**
- a. All signs as permitted in the residential and agricultural districts shall be permitted for similar uses in the commercial districts.
  - b. The restrictions imposed in this Section on signs projecting into the right-of-way shall not apply to signs located on marquees, canopies, awnings, or projection signs in these commercial districts. Any sign located in such a manner shall be non-flashing and internally illuminated. Letters may project vertically up to 24 inches above a canopy or marquee only. Such signs shall be a minimum of eight (8) feet above the finished grade below the sign and may project no more than four (4) feet into the public right of way, unless it is determined that such a projection will create a traffic hazard. [Amended, 3/8/2010]
  - c. Projecting placard signs shall be permitted subject to the requirements of paragraph (b) above. Such signs shall be internally illuminated and limited to 12 square feet in size. They shall be mounted perpendicular to the building face and limited to one (1) per building. For buildings with multiple uses with separate entries, each use with a separate entry shall be permitted to have one (1) sign. [Amended, 3/8/2010]
  - d. Signs in the C-1 and C-3 districts are subject to the development standards listed in Sections 10.04 and 12.04 respectively. Where those standards

conflict with the standards contained in this section, the higher standard shall apply.

- e. One (1) ground and one (1) wall-mounted sign shall be permitted per road frontage for an individual commercial, industrial, church, school, or hospital use as located on a lot or group of lots developed as one lot.
- f. For multiple tenant uses such as a shopping center or office complex located on a lot or group of lots developed as one lot, one (1) ground sign per lot or group of lots developed as one (1) unit and one (1) wall-mounted sign per each individual use or one (1) wall sign for the shopping center shall be permitted. Centers located on corner lots shall be permitted one (1) ground sign per road frontage to be located at entry drives.
- g. Within the C-2 or I-1 districts, one (1) ground sign shall be permitted at the entry to a research, office, or industrial development, consisting of at least three (3) individual lots sharing a common entry and name. One (1) ground and one (1) wall-mounted sign shall also be permitted for each individual use within that development. For larger developments with more than one entrance from a local or primary road, one (1) ground sign identifying the development may be permitted at each access point with the Planning Commission approval.
- h. It shall be unlawful to erect any ground sign the height of which is greater than six (6) feet above the level of the street upon which the sign faces at the point of the sign. Ground signs for shopping centers, office parks, or similar developments that serve multiple uses may be built up to eight (8) feet in height.
- i. Ground signs shall not have a surface area exceeding 100 square feet, unless permission for greater surface area is granted in the paragraph below.
- j. In case of shopping centers, the total surface area of the sign identifying the shopping center and the businesses therein shall be a maximum of 150 square feet. Identification signs for tenants within the shopping center may be placed upon and supported by the same stanchion, post or other support as the shopping center identification sign, provided there is uniformity in design and square footage requirements are met.
- k. Wall-mounted signs shall not exceed 20 square feet and shall not project outward from the wall more than 24 inches. The maximum height of the wall sign shall be 12 feet or the height of the cornice or roofline. Signs erected on the vertical portion of a mansard roof are considered to be wall signs. However, the bottom of signs projecting from the building shall not

be less than eight (8) feet above the finished grade of accessible areas below the sign.

1. Signs shall be setback a minimum of five (5) feet from the road right of way or fifteen (15) feet from the edge of pavement, whichever is more. Signs shall be setback eight (8) feet from adjacent properties.

G. **Temporary Signs.** Temporary signs not otherwise exempted or regulated by this Section shall be authorized by the Zoning Administrator for not more than two (2) months at a time by written permit which shall show the size, shape, content, height, number, type of construction and location of such signs and the period during which authorized, upon finding by the Zoning Administrator, on the basis of written information furnished by the applicant that the proposed sign or signs are for the direction and/or information of the public and not contrary to the spirit and purpose of this Ordinance, and upon payment of a fee set by the Township Board of each permit and renewal. If such signs are placed on public property, the Zoning Administrator shall remove them without notice.

H. **Off-Premises Signs**

1. **Intent.** The intent of off-premise signage in Royalton Township is primarily to direct traffic toward commercial and community uses not located along heavily traveled roads. Additional space is provided for a logo and essential information (i.e. address, phone number, hours) as is traditional for these types of signs. These signs are not intended to be used to advertise products, merchandise, or services.
2. **Permitted.** Off-premise signage shall only be permitted along County Primary Roads and State Routes as well as within 150 feet of an intersection of another road and a County Primary Road or State Route.
3. **Setbacks.** Off-site signage shall be setback from the right of way line or roadway easement by a minimum of five (5) feet. Each sign should be separated by at least fifteen (15) feet from another such sign.
4. **Maximum Size.**
  - a. Each sign shall be a maximum size of 15 square feet.
  - b. If multiple businesses mount their sign panels on the same posts, they shall be entitled to a bonus of 10 square feet, which can be split amongst the businesses or used to identify a general direction, distance, or shopping center. All of the panels must be of the same design.
  - c. The maximum height shall be eight (8) feet if there is one (1) panel, 12 feet if there are multiple panels.

5. **Design.** All signs located at the same intersection or within 500 feet of the intersection shall have a generally uniform design in terms of shape; size, background color; font, font size, and font color (unless these are particular to the identify of the business); and material. If there are existing signs at the site, new signs shall coordinate the majority of the signs that are of uniform or coordinating design, within the other standards of this section. The Zoning Administrator and/or Planning Commission shall determine whether the sign is of compatible design if there is any question.
6. **Illumination.** Off-premises signs shall be internally illuminated.
7. **Existing Off-Premises Signs.** Existing off-premises signs that do not conform to these standards are nonconforming and are subject to the standards of Section I below.

I. **Non-conforming Signs.**

1. **Lawful Existing Signs.** Any sign lawfully existing at the time of this Chapter which does not fully comply with all provisions shall be considered a non-conforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.
2. **Continuance.** A non-conforming sign shall not:
  - a. Be expanded or changed to another non-conforming sign;
  - b. Be relocated or structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, placement, or design of the sign.
  - c. Be re-established or maintained after the activity, business or usage to which it relates has been discontinued for 90 days or longer;
  - d. Be repaired or re-erected after being damaged if the repair or re-erection of the sign would cost more than 50 percent of the cost of an identical new sign.
3. **Intent.** It is the intent of this section to encourage eventual elimination of signs that, as a result of the adoption of this Chapter, become non-conforming, and to administer this Chapter to realize the removal of illegal non-conforming signs and to avoid any unreasonable invasion of established private property rights, therefore;
  - a. No person shall be required to remove a sign which was erected in compliance with previous regulations of this Chapter if said sign becomes



nonconforming due to a change occurring after adoption of this chapter, or in the location of buildings, streets or other signs, which change, is beyond the control of the owner of the sign and the premises on which it is located.

- b. If the owner of a sign or the premises on which a sign is located changes the location of a building, property line, or sign, or changes the use of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Chapter.

**J. Sign Removal by Township Action.**

1. **Abandoned and Illegal Signs.** The Planning Commission shall have the authority to require the removal of abandoned and illegal signs in the Township subject to the following:
  - a. **Public Hearing.** Such action may be taken only after a public hearing has been held at which time the owner, operator, or person having beneficial use of the property upon which the sign is located shall be given an opportunity to present evidence that the sign is not abandoned or illegal or should not be removed.
  - b. **Determination.** Subsequent to the hearing, the Planning Commission shall make a determination as to whether the sign is an abandoned or illegal sign, as defined by this Ordinance. Written notification of the determination, and any order for removal, shall be provided to the sign owner, operator or person having beneficial use of the property upon which the sign is located.
  - c. **Removal.** Abandoned or illegal signs shall be removed within 30 days of the determination and order for removal by the Planning Commission. All sign copy and component parts shall be completely removed and the area where the sign was located shall be restored as nearly as possible to its original condition. Failure to remove the sign shall constitute grounds for the Township to seek Circuit Court approval to remove the sign at the expense of the owner of the property upon which the sign is located. The Township shall then place a lien on the property, adding necessary removal expenses to the tax bill for the property.
  - d. Abandoned signs or signs advertising business no longer in business for a period greater than 90 days. Illegal signs are signs that are constructed without a permit and/or are constructed out of compliance with the standards of this Ordinance.

2. **Damaged Signs.** Signs determined to be in a damaged condition by the Zoning Administrator shall be repaired, replaced, or removed to the satisfaction of the Zoning Administrator by the owner, operator of person having beneficial use of the property upon which the sign is located. Such signs may be repaired or removed by the Township at the expense of the owner of the property upon which the sign is located, if such action is not taken by the owner within 10 days. The Township shall then place a lien on the property, adding necessary removal expenses to the tax bill for the property.
3. **Nonconforming Signs.** Nonconforming signs are to be eliminated, except as otherwise specifically set forth in this section, as rapidly as the police power of the Township permits. The Township Board shall have the authority to institute and prosecute proceedings for the condemnation of nonconforming signs, determined to be in violation of the requirements of subsection I, Nonconforming Signs, under the power of eminent domain, in accordance with the laws of the State of Michigan and the provisions of the Township Charter relative to condemnation. The Township Board may, at its discretion, acquire and remove nonconforming signs by purchase, condemnation, or otherwise for the purpose of removal, with the cost paid from general funds.
4. **Temporary Signs.** Temporary signs erected or displayed within a street right of way or corner clearance area without a valid permit, or after the expiration of a permit, may be removed by the Township without notice. Signs removed shall be held by the Township for a 15 day reclamation period, after which the signs shall be deemed abandoned and shall be discarded.
5. **Unsafe Signs.** Signs determined to be unsafe by the Zoning Administrator shall be immediately removed or repaired to the satisfaction of the Zoning Administrator by the owner, operator, or person having beneficial use of the property upon which the sign is located. Such signs may be removed by the Township at the expense of the owner of the property upon which the sign is located if such action is not taken by the owner within 24 hours. The Township shall then place a lien on the property, adding necessary removal expenses to the tax bill for the property.

### **Section 17.12 Junk Storage / Use of a Vacant Lot**

No yard or parcel of land with or without a dwelling or commercial building shall be used for open air storage, wrecking, parking, dismantling, accumulation, or abandonment, either temporarily or otherwise, of disused, discarded, or dismantled vehicles, machinery, apparatus, implements, furniture, appliances, used lumber, water craft, or any junk or similar used property, unless approved as a junkyard, salvage yard, or outdoor storage use in accordance with the requirements contained herein. Persons in violation of this Section shall be subject to the Township Litter and Debris Ordinance.

**Section 17.13 Swimming Pool**

- A. **Applicability.** The standards below shall only apply to swimming pools with water over 24 inches deep.
- B. **Permit Application.** It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit thereof. An application for a permit should provide the following information; name of the owner, plot plan specifying dimensions, site location of the pool, as well as nearby fences, buildings, gates, septic tanks, tile fields, public utilities, and easements. The application for a below ground pool must include plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping, and valve layout.
- C. **Location.** Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than 5 feet from the side or rear lot lines. There shall be 10 feet between the pool wall and any structures on the lot as well.
- D. **Barriers.** All below ground swimming pools and above ground swimming pools less than four (4) feet in height shall be completely enclosed by a barriers with a locking gate or gates not less than four (4) feet in height. Above ground pools four (4) feet in height or taller shall have locking gates, removable ladders, or a barrier not less than four (4) feet in height to restrict unauthorized access. In cases where these standards conflict with State Building Code standards, the stricter standard shall apply.
- E. **Utilities.** All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the State Electrical Code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. No portion of a swimming pool or associated structure shall be permitted to encroach upon any easement or right-of-way that has been granted for public utility use. The following location restrictions apply to utilities around proposed pools:
1. There must be 10 feet horizontally between pool walls and overhead electrical and telephone wires.
  2. There must be 25 feet horizontally separating pools from any semi-public water well, unless the County Public Health Department approves a shorter distance.
  3. There must be three (3) feet horizontally maintained between pool walls and any sewer.

4. There must be 10 feet horizontally maintained between swimming pools and septic tanks, tile fields, or other treatment facilities, provided the water level in the pool is one (1) foot above the ground surface elevation of such treatment facility.
  5. There must be three (3) feet horizontally between any portion of the pool and any underground water, electrical, telephone, gas, or other pipes and conduits, except for parts of the swimming pool system.
- F. In cases where these standards conflict with State Electrical Code or Building Code standards, the stricter standard shall apply.

**Section 17.14 Grades, Elevation Differentials, Walls, and Drainage**

- A. These activities are exempt in the A district provided a Soil Erosion Permit has been obtained from the Berrien County Drain Commissioner.
- B. Any excavation, filling, or grading of land that would alter the established site elevations or drainage patterns, or the use of land for the excavation, removal, filling, or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes, or by-products, shall not be permitted in any zoning district except in accordance with an approved site plan. This regulation does not apply to normal soil removal for basement or foundation work when a building permit has been issued by the Township.
- C. The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties.
- D. Retaining walls in excess of four (4) feet in height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.

**Section 17.15 Fence, Wall, and Privacy Screen Regulations**

[Amended 3/8/2010]

Fences are permitted or required subject to the following:

- A. From the date of adoption of this Ordinance, it shall be prohibited for any person, firm, or corporation to construct or cause to be constructed, any fence or wall upon any property within Royalton Township without first having obtained a zoning permit from the Zoning Administrator.

- B. All property lines must be properly established either by survey, deed or assessor description before any fence is installed.
- C. Fences in the E-1, R-1, R-2 and R-3 zones shall comply with the following standards:
1. **Front Yard Fences:**
    - a. When located within the front yard, fences shall not exceed three (3) feet in height measured from the finished grade at the property line and may be located on the front property line provided the fence may not be located closer than one (1) foot back from the road right-of-way line .
    - b. When located within the front yard, fences shall not materially impede vision across such yard, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard. These fences shall have a vertical surface area that is a minimum seventy-five percent (75%) open to the free passage of light and air.
  2. **Corner Lot Fences.** All yards adjacent to road frontage shall be subject to the requirements of Paragraph 1 above.
  3. **Interior Side Yard.** When located in an interior side yard between the front building line and the rear building line, fences may not exceed six (6) feet in height. Such a fence shall not extend toward the front of the lot beyond the front face of the principal structure or the required minimum front yard, whichever is greater.
  4. **Rear Yard Fences:**
    - a. A fence may be located on the rear property line not to exceed six (6) feet in height.
    - b. If there is an alley or service road in the rear yard, the fence must be setback 10 feet from the road pavement, or at the property line, whichever is greater.
  5. **Waterfront Yards:**
    - a. Fences, hedges, and other vegetation in waterfront yards may be permitted provided they do not materially impede vision across such yard. Such fences and other barriers may be a maximum of three (3) feet in height and have a vertical surface area that is a minimum of 75 percent open to the free passage of air and light.

- b. Such fences must be located no closer than 15 feet from the ordinary high water mark.
- D. Fences, which enclose public or institutional playgrounds, shall not exceed seven (7) feet in height above grade, and shall not obstruct vision to an extent greater than twenty-five (25) percent of their total areas.
- E. Fences shall be permitted in non-residential districts, provided that such fences shall not exceed six (6) feet in height above grade, and shall not extend toward the front of the lot farther than any portion of the main building, except where permitted for the purposes of enclosing outside storage.
- F. Living fences or landscaping densely packed to serve the same function, as a fence shall be subject to the same standards as any other fence in this Ordinance except that a living fence shall be permitted to exceed the maximum height for a fence in the rear yard.
- G. Fences shall be required in non-residential zones for the enclosing of areas used for outside storage of goods, material or equipment. Such fences shall be six (6) feet in height above grade.
- H. Fences in non-residential districts shall not consist of barbed wire or electrically- charged wiring, provided, however, that fences enclosing storage areas may have barbed wire connected there with, if such barbed wire is more than six (6) feet above grade, and is approved by special use permit.
- I. Temporary fences may be permitted on a temporary basis by the Zoning Administrator provided that a specific time for the removal of the fence is provided.
- J. If, because of the design or construction, one side of a fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot. All wooden fence posts must be properly treated to prevent decay. Posts must be installed inside the property line, facing the interior of the lot.
- K. Slats of any material shall not be permitted in chain link fences.
- L. Except as required for swimming pools and playgrounds, recorded lots of record having a lot area in excess of three (3) acres and a frontage of at least 200 feet are excluded from these regulations.

**Section 17.16 Storage of Recreational and Commercial Vehicles on Residential Lots**

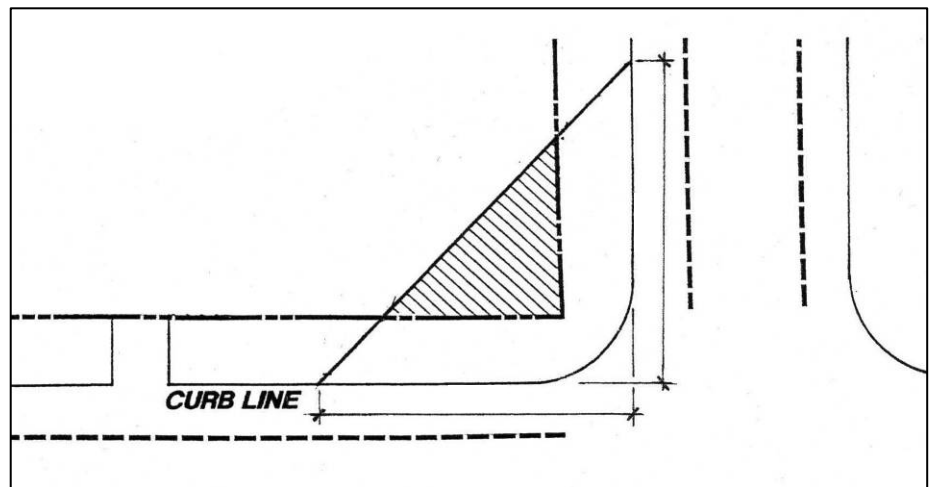
- A. No commercial vehicle over one ton in curb weight shall be parked in a residentially zoned area. This provision shall not apply to commercial vehicles temporarily parked in a residential area in conjunction with the maintenance or service to a property in a residentially zoned area.

1. In any proceeding for violation of this section, either the person to whom a commercial vehicle is registered or the owner(s) of the property on which the vehicle is parked may be held fully liable for the violation.
  2. Commercial vehicles parked in an agricultural use shall be exempt from the standards contained in this Section of the Ordinance.
- B. Trailers, boats, motor homes, and other recreational vehicles shall be parked and stored in the rear yard or side yards in agricultural and residential zoning districts. Vehicles must be setback a minimum of five (5) feet from the property line.
- C. The area of storage shall be effectively screened from adjacent properties if located within a subdivision, site condominium, or planned unit development, by fencing or dense landscaping.
- D. Stored vehicles must be licensed and in an operable condition.
- E. Stored vehicles must be located on a lot with an existing and permitted principal structure under similar ownership as the vehicle.
- F. These provisions shall not apply to vehicles intended for and used for agricultural purposes on agricultural property.
- G. A house trailer/mobile home shall not be stored, parked, or occupied for living purposes (connection to any public utility shall constitute occupancy for the purposes of this ordinance) except as follows:
1. In an approved manufactured housing park (see Chapter 8) or campground (see Section 18.13), with adequate provisions and services to handle the guests, if approved as temporary housing for migratory farm labor (see Section 18.30), or if otherwise approved as a temporary use (see Section 17.08).
  2. The owner or lessee of any premises occupied by a dwelling in an agricultural zoning district may permit the parking and storage of a maximum of one (1) mobile home on the premises when occupied by relatives for a period of time not exceeding one hundred twenty (120) days.
  3. Within five (5) days following parking of any such mobile home, the owner or lessee of the premises shall file the date, names, and permanent addresses of the occupants, and the make, serial number, and license number of the mobile home with the Zoning Administrator. He shall satisfy the appropriate County or State agency as to the safety of the provisions for water, sewage, and garbage disposal, which provisions shall be in conformity with other Township ordinances.

### Section 17.17 Visibility Obstruction (Unobstructed View Triangle)

No structure, wall, fence, sign, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted, or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level, brick or stone mailbox supports, and trees where all branches are not less than eight (8) feet above the street level will be permitted. In the case of intersecting streets or a driveway intersecting with a street, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line

connecting them at points 25 feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended. At driveways, the lines forming the edges of the triangle are reduced to 15 feet.



### Section 17.18 Building Height Exception

The following exceptions shall apply to the height limits for all districts as required by this Ordinance:

- A. **Residential Exceptions.** Chimneys, elevator towers, mechanical equipment, flag poles, television antennae for personal use, and similar structures shall not be included in calculating the height of the primary building, provided that the total area covered by such structures shall not exceed 15% of the roof area of the building.
- B. **Public/Semi-public Exceptions.** Church spires, public monuments, and water towers shall not be included in calculating the height of the primary building.
- C. **Farm Exceptions.** Barns, windmills, silos, and other structures related to agriculture production shall not be subject to height regulations and as such, shall not be included in the calculated height of the primary building.
- D. **Towers and turbines.** Wireless communication towers, television and radio antennas, and wind turbines approved by the Township with a Special Use Permit shall be permitted to exceed the height limit of the zoning district provided they adhere to the



standards provided in Section 18.21 or 18.34, as applicable, and do not create a hazard to the public health, safety, or welfare.

- E. **Essential Services.** Structures related to essential services serving Royalton Township (as outlined in Chapter 18) shall not be subject to height regulations, except as noted below in subsection G.
- F. **Special Permit Uses.** If any of the above listed structures or uses require a special permit, the Planning Commission and Township Board reserve the right to specify a height limit when authorizing the special use.

### Section 17.19 Exterior Lighting

- A. **General Provisions.** The design and illumination standards of this Article shall apply to all exterior lighting sources and other light sources visible from the public way or adjacent parcels, except where specifically exempted herein.
  - 1. **Fully-shielded.** Exterior lighting shall be fully shielded and directed downward, and shall utilize full cutoff housings, louvers, glare shields, optics, reflectors or other measures to prevent off-site glare and minimize light pollution.
  - 2. **Glare and light trespass.** Exterior lighting sources shall be designed, constructed, located, and maintained in a manner that does not cause off-site glare or light trespass on neighboring properties, street rights-of-way, or upon open water.
  - 3. **Animated lighting.** Lighting shall not be of a flashing, moving, animated or intermittent type, and the use of laser light sources, searchlights, or any similar high intensity light source for outdoor advertisement or entertainment is prohibited. [Amended, 3/8/2010]
- B. **Standards by Type of Fixture.**
  - 1. **Freestanding pole lighting.** The following standards shall apply to all freestanding pole-mounted light fixtures:
    - a. **Maximum overall height.** The maximum height of pole-mounted fixtures shall be fifteen (15) feet. Where fixtures are located more than 300 feet from a residential district or use, the height limit may be increased to twenty (20) feet.
    - b. **Hours of operation.** All exterior lighting systems in non-residential districts as well as non-residential uses (not a dwelling) in residential and agricultural districts shall incorporate automatic timers, and shall be turned

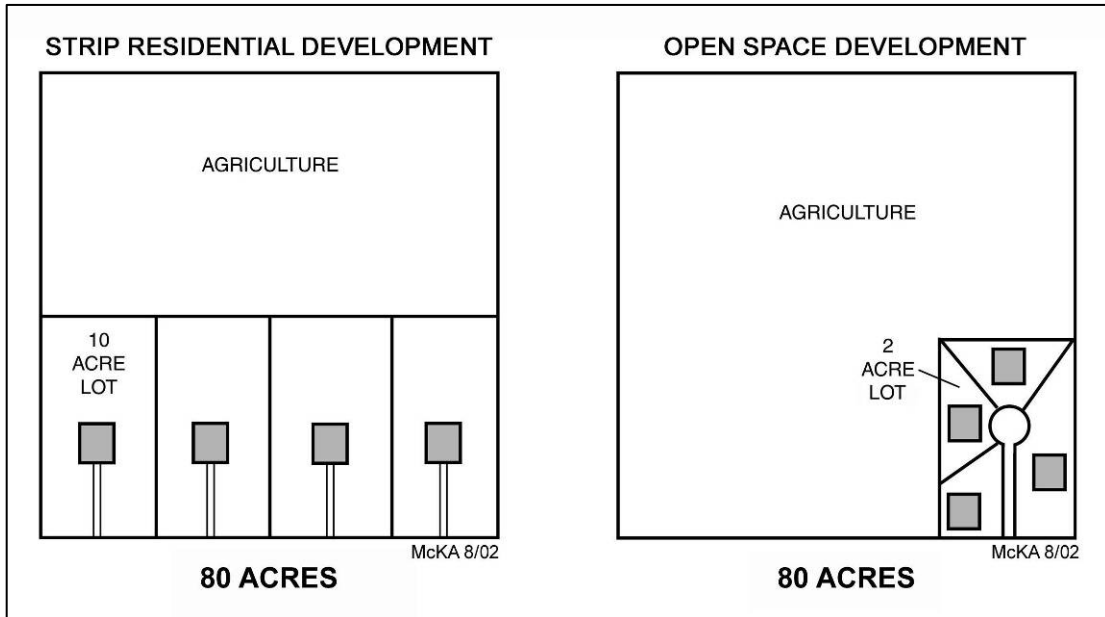
off between the hours of 11:00 p.m. and sunrise, except the minimum necessary for security purposes. Shut off time may be extended for those businesses operating after 11:00 p.m.

2. **Decorative light fixtures.** The Zoning Administrator may approve decorative light fixtures as an alternative to shielded fixtures, provided that such fixtures would enhance the aesthetics of the site and would not cause off-site glare or light pollution. Such fixtures may utilize incandescent, tungsten-halogen, metal halide or high-pressure sodium lamps.
- C. **Lamp or Fixture Substitutions.** Light fixtures regulated under this Section shall not be altered or replaced after approval has been granted, except where the Zoning Administrator has verified that the substitution would comply with the provisions of this Section.
- D. **Exempt Lighting.** The following types of exterior lighting are exempt from the requirements of this Section, except that the Planning Commission and/or the Zoning Administrator may take steps to minimize glare, light trespass, or light pollution impacts where determined to be necessary to protect the health, safety and welfare of the public:
1. Holiday decorations.
  2. Shielded pedestrian walkway lighting.
  3. Residential lighting that does not cause off-site glare or contribute to light pollution.
  4. Cases where federal or state laws, rules, or regulations take precedence over the provisions of this Section.
  5. Situations where fire, police, rescue, or repair personnel need light for temporary or emergency situations.

## **Section 17.20 Open Space Preservation Development – Standards and Regulations**

Open Space Preservation Developments may be approved in the A, E-1, and R-1 Districts, subject to the standards and review procedures set forth herein.

- A. **Purpose.** The purpose of Open Space Preservation Option is to permit, at the option of the developer, the preservation of at least fifty (50) percent open space within certain single family residential developments; thereby contributing to the preservation of rural character, open space, natural features, and agricultural lands in the Township. These regulations in this section propose to accomplish this purpose by providing for the



grouping of homes onto the most buildable portions of a site so that the remainder of the site can be preserved in an undeveloped state.

As used in this section, the term “undeveloped state” shall have the meaning given to it in Section 102, subsection (t), of the Michigan Zoning Enabling Act, Public Act 110 of 2006, which states the following:

*“Undeveloped state” means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use of 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. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.”*

- B. **Applicability.** Property in the A, E-1, and R-1 districts may be developed according to the standard conditions and requirements for the zoning district, or according to the Open Space Preservation Option of this section. If the Open Space Preservation Option is selected, the property shall be developed under the conditions and requirements in this section, other applicable zoning regulations, and other applicable Township ordinances. The open space preservation option shall only apply to parcels on which the zoning permits a density equivalent to two (2) or fewer dwellings per acre when served by an on-site sewer system or three (3) or fewer dwellings per acre when served by a public sanitary sewer system.
- C. **Review and Approval Process.** Proposals for Open Space Preservation Development shall be reviewed following the same site plan procedures as applicable for: conventional subdivisions, land divisions, or site condominium proposals, except that the applicant

shall provide a site drawing showing the following, as part of the application:  
[Amended, 3/8/2010]

1. active agriculture areas,
2. existing vegetation,
3. topography at two (2) foot contour intervals,
4. water courses,
5. roads and road rights-of-way, easements,
6. MDEQ-regulated wetlands,
7. floodplains.

D. **Parallel Plan.** The permitted density in the Open Space Development shall be based on the net buildable area of the site which consists of the portions of the site that are not encumbered by existing and proposed rights-of-way, roadway easements, existing structures or lots, or other existing or proposed features that would prevent the construction of a building or use of the site for residential purposes.

1. To assist the Planning Commission in determining the net buildable area, the applicant shall submit a parallel plan that shows how the site could be developed under conventional zoning. The parallel plan should be drawn to contain the maximum number of lots possible without using the Open Space Option. Each lot shown on the parallel plan shall be buildable and consistent with the dimensional requirements of the underlying zoning district.
2. The Planning Commission shall review the parallel plan and determine the number of lots that could feasibly be constructed based on site conditions, conformance with the minimum requirements of the zoning district, accessibility of each lot, and appropriate lot configuration. The number of feasible lots shall be the base number of dwelling units allowable for the Open Space Preservation Development.

E. **By-Right Development.** Open Space Preservation Development is permitted by right in the A, E-1, and R-1 zoning districts. Open Space Preservation Development shall satisfy the requirements of Section 506 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, including provision of a guarantee of protection of the open space by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that run with the land, as detailed in the standards below.

**F. Development Standards for Open Space Preservation Developments**

**1. Permitted Uses**

An Open Space Preservation Development shall be restricted to single family detached dwellings.

**2. Minimum Standards**

- a. All applicable requirements of this Ordinance and the underlying zoning district shall be met, except as may be specifically modified by this Section.
- b. Minimum lot area and width may be reduced by up to fifty (50) percent of the requirements for the zoning district in which the property is located, subject to approval by the Planning Commission and the Berrien County Health Department, if needed..
- c. Minimum setback requirements may be modified, by the Planning Commission, if necessary, based on reduced lot sizes and sound planning and design principals; provided, no yard requirement may be reduced by more than twenty-five (25) percent from the district minimum requirements, In determining the appropriateness of a reduction in yard requirements, the Planning Commission shall consider compatibility between adjoining uses, sensitivity to natural features on the site, and the buildable area available within each lot.
- d. A fifty (50) foot greenbelt shall be provided along any perimeter county road that abuts the development site. No building or parking shall be permitted within this setback area.

**3. Roads and Driveways.** To the extent practicable, the arrangement of lots, access roads, and designated open space within an Open Space Preservation Development shall achieve the following objectives:

- a. All lots shall be accessed through an interior network of public or private streets. Individual lots shall not be accessed directly from the pre-existing public road adjacent to the property.
- b. Street systems and lot layout should be designed so their curvature or alignment produces unimpeded views of prominent open space elements. This may commonly occur at the terminus of street intersections or through use of a street alignment directly abutting open space.

4. **Utilities**
    - a. All utility distribution lines and service lines to individual dwelling units, including telephone, electric and cable television lines, shall be placed underground.
    - b. If there is public water or sewer service available to the site on which an open space community development is proposed, the Planning Commission shall require connection into the system.
  5. **Stormwater Management.** Existing natural drainage shall be maintained to the maximum extent feasible. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material native to Berrien County that enhances the wildlife habitat.
  6. **Variances.** This provision shall not preclude an individual lot owner from seeking a variance following final approval of the Open Space Preservation Development, provided the variance does not involve alterations to open space areas or increase the number of units permitted, as shown on the approved Open Space Preservation Development site plan.
- G. **Open Space Amount/Requirements.** Open Space Preservation Developments shall provide and maintain open space in an Undeveloped State as defined in paragraph A above. Open space provided in Open Space Preservation Developments shall comply with the following standards:
1. A minimum of fifty percent (50%) of the gross land area of an Open Space Preservation Development shall be designated as open space.
  2. Open space shall be located on the parcel to meet one or more of the following objectives:
    - a. To protect and preserve distinct natural features, scenic or wooded conditions, and rural characteristics.
    - b. To allow for the continued use of agricultural lands within a residential environment, in compliance with GAAMP Standards.
    - c. To protect viewsheds and provide visual and spatial separation between the developed property and adjoining property.
    - d. To provide Open Space along public road corridors.
    - e. To provide common recreational area for use by the residents of the development or the public.

3. In addition, no more than twenty-five (25) percent of the required open space may be developed with children's play facilities, picnic facilities, and/or public parks, to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives and shall satisfy the definition standards for open space.
4. At least twenty-five (25) percent of the open space must be in usable, upland areas.
5. To the extent possible, dedicated open space areas shall be continuous throughout the Open Space Preservation Development. Open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the development.
6. To the extent possible, open space areas shall be strategically located to establish continuous networks of important environmental resource systems including, but not limited to, wetlands, woodlands, stream and river corridors, and wildlife corridors and habitats.
7. Land with any of the following characteristics shall not be included in the calculation of the area of designated open space.
  - a. Land subject to public or private street easements or right-of-way.
  - b. Land used for any above ground portion of a private community on-site wastewater disposal system.
  - c. Land that is included within the boundaries of a lot in a subdivision plat, within the boundaries of a condominium unit, or within the boundary of a parcel intended to be a building site.
  - d. Land designated for parking of vehicles.
  - e. Land dedicated to a commercial recreation use (such as a golf course).
8. Trails and passive recreation space shall be permitted in open space areas.
9. The required open space shall be perpetually preserved in an undeveloped state and protected against uses or activities inconsistent with the intent of this article. The open space may be dedicated to the public, if accepted by the Township, or conveyed to all lot owners within the development. A legal instrument, acceptable to the Township, such as a conservation easement held by the Township or a qualified land trust, a plat dedication, restrictive covenant, or other instrument of record that runs with the land shall be used. Such conveyance shall:

- a. Be subject to approval of the Township Attorney.
  - b. Indicate the proposed use(s) of the required open space.
  - c. Provide for the privately owned open space to be maintained by the property owners' association or other association of private property owners having a shared ownership interest in the open space.
  - d. The applicant(s) for the proposed development shall provide the Township with a recordable maintenance or restrictive covenant agreement between the owner(s) of the open space, or other documentation satisfactory to the Township, which shall provide for and assure that the open space shall be preserved in perpetuity and maintained as needed.
  - e. Provide notice of possible assessment to the private property owners by the Township for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
  - f. Except with respect to open space set aside for active farming, the open space conveyance shall permit the use of the open space by all property owners within the Open Space Preservation Development and/or the general public, as applicable.
  - g. Except with respect to existing active farms, the maintenance requirements of dedicated open space are not necessarily intended to include regular clearing and mowing or other active maintenance. For the purposes of this subsection, maintenance is intended to include such items as removal of any accumulation of trash or waste material within the dedicated open space area, clean up of storm or other Act of God damage, or removal of diseased plant materials.
  - h. After approval from the Township, the developer shall record the final document with the Berrien County Register of Deeds to provide notice of the restrictions to all persons having or seeking an interest in the property contained in the Open Space Preservation Development. A copy of the recorded document shall be provided to the Township.
10. Designated open space areas not intended to be used for active agricultural uses shall be accessible by pedestrians and non-motorized vehicles from all dwelling units in an Open Space Preservation Development by means of public or private streets, or by pedestrian access ways in easements that have a minimum width of ten (10) feet and an improved surface meeting specifications as approved by the Planning Commission or Township Board. To the extent possible, natural features shall be preserved within easement areas.



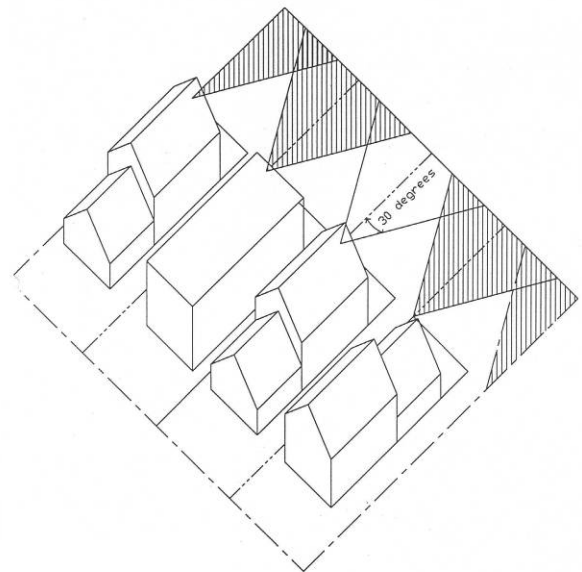
**Section 17.21 Waterfront Yards**

All parcels with a property line abutting waterfront must comply with the applicable sections of this Ordinance.

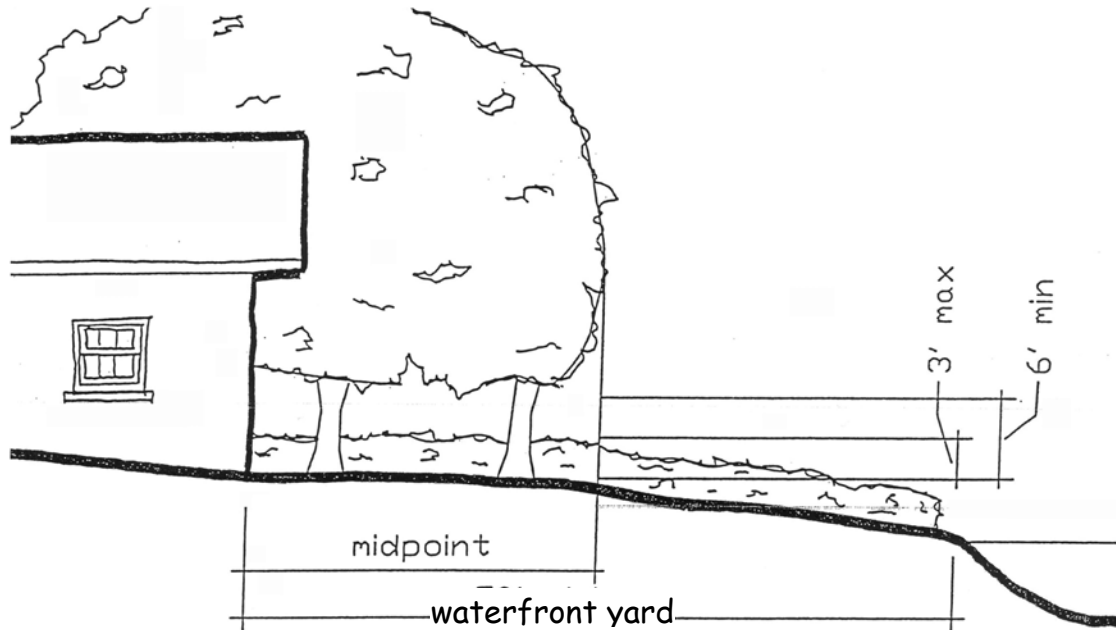
A. **Waterfront Yard Setbacks.** The setback in waterfront yards shall satisfy the rear yard setback standard for the designated zoning district in which the property is located or equal 50 feet, whichever is greater. Where existing development has occurred within that setback area, the building setback may be established consistent with the average of the waterfront yard setback of the properties within 200 feet on either side of the subject property, except that the setback shall be no less than 30 feet.

B. **Clear Vision Triangles.** Each lot shall maintain clear vision triangles along both side lot lines between the waterfront yard setback and the shoreline as described below. The area within clear vision triangles shall be maintained free of recreational vehicles, waterfront structures, accessory buildings, and plant material over the height of three (3) feet with the following exceptions:

1. Within clear vision triangles, plant material that reaches a mature height of over three (3) feet shall not be newly installed between the shoreline and the midpoint of the waterfront setback line. The midpoint shall be defined as the point halfway between the shoreline and the waterfront yard setback line, as measured at the side lot line.
2. Between the midpoint and the waterfront yard setback line, shrubs and evergreen plants shall be trimmed so as to not exceed a height of three (3) feet and deciduous and evergreen trees shall be trimmed so as to not have foliage below a height of six (6) feet, provided that vegetation may occupy a portion of such area between the heights of three (3) feet and six (6) feet as long as it does not significantly obstruct views to the lake or canal, as determined by the Zoning Administrator.



**Clear Vision Triangle**



## Permitted Vegetation Within the Clear Vision Triangle

3. The Clear Vision Triangle shall be bounded by the following sides:
  - a. The side lot line;
  - b. The shoreline; and
  - c. A line that commences at the intersection of the side lot line and the waterfront yard setback and runs towards the shoreline at a thirty (30) degree angle from the side lot line.

C. **Waterfront Structure.** The following waterfront structures and appurtenances are permitted within a waterfront yard provided such structures are accessory to a permitted principal use of waterfront property and the use is limited to recreational and personal use of the principle user (occupants) residing on the property. A building permit shall be applied for and obtained prior to construction of any dock, slip, or launching facility, regardless of size.

1. Permitted projections into yards as regulated in Section 17.10, Projections into Yards are permitted in waterfront yards subject to these additional conditions:
  - a. The horizontal distance of said structures shall not exceed fifty (50) percent of the width of the lot line that abuts the water body.

- b. Said structures shall be at least five (5) feet from a side lot line.
  - c. Said structures shall not extend over the water more than 24 inches. This provision shall not apply to seasonal docks.
  - d. Railings that exceed three (3) feet in height shall not exceed fifty (50) percent opacity.
  - e. Fences, windbreaks and other similar structures attached or adjacent to decks, patios, or terraces shall not exceed four (4) feet in height, unless otherwise prohibited by the standards of this ordinance.
2. A shed, not exceeding a floor area of more than 100 square feet and a height of eight (8) feet shall be permitted within the waterfront yard, provided such shed is setback a minimum of 20 feet from the shoreline and complies with all accessory building standards contained in Section 17.09, Accessory Structures, and subsection (c), Clear Vision Triangles above.
3. The following waterfront structures and appurtenances shall be permitted, provided that they meet the requirements of subsection (c) Clear Vision Triangles above:
- a. Piers and wharves, including floating types;
  - b. Flush mount and swivel hoists, overhead hoists, davits and mooring whips;
  - c. Spring or mooring piles; and,
  - d. Unenclosed boat port/well having a roof only and not exceeding a height of twenty-two (22) feet above mean high water.
4. Boat Docks, Slips, and Launching Facilities
- a. A maximum one (1) boat dock, boat slip, or launching facilities equipped to moor no more than two (2) vessels shall be permitted on any residential parcel, lot, or unit with water frontage on the St. Joseph River.
  - b. No more than two (2) vessels shall be moored at the permitted facility at any one time.
  - c. No boat docks, slips, or launching facilities shall be sold, leased, or rented by the owner or occupant of the primary residential lot or parcel of land to other persons except as incidental to the sale, lease, or renting of the primary residential structure on the same lot or parcel of land.

- d. No residential property owner shall place, or allow to be placed, docks, slips, or launching facilities upon any access easement, fire lane, or other similar interest in land.
  - e. Owners or occupants shall keep all docks, slips, and launching facilities in good condition and repair.
  - f. No owner or occupant shall allow other persons to launch said other person's vessel into or pull said other persons' vessel out of the St. Joseph River by use of the owner or occupant's dock, slip, or launching facility.
5. Boat lifts shall be permitted within a waterfront yard, provided that the total width of the boat wells on the property does not exceed 50% of the width of the lot at the water frontage. A minimum 10 foot setback must be maintained between the boatwell(s) and the principal structure on the lot.
  6. Bulkheads or seawalls are permitted, provided no bulkhead or seawall may extend into the waterway beyond the lot line of any lot.
  7. Construction, installation, storage, docking, or mooring of structures, appurtenances, or watercraft shall not obstruct the natural flow of water or access of boaters to: adjoining or nearby parcels; to deeper waters; or, normal boating routes.
  8. All permitted structures and appurtenances shall be kept safe, secure and in good repair.
  9. The placement of aids to navigation and regulatory markings are specifically exempt from the requirements of this section.
  10. Pump houses less than 3 feet in height shall be exempt from these requirements.
  11. Temporary waterfront structures may be stored within the clear vision triangle of a waterfront lot between September 15 and May 15.
  12. All structures contained in the waterfront yard shall be counted towards the calculation of lot coverage.
  13. Storage of recreational vehicles in waterfront yards shall be prohibited within the clear vision triangle.

**Section 17.22 Pets**

On residential properties, domestic animals kept as pets shall be kept in conformance with the standards of this Ordinance and the Township's anti-noise and public nuisance ordinance and shall be kept and treated in order to maintain the public health, safety, and welfare.

No person shall have within his care, custody or control within the Township more than 3 dogs other than dogs 6 months of age or less born to a female under the care, custody or control of such person, provided that this provision shall not be construed to require any person to dispose of any licensed dog owned by such person at the effective date of this Ordinance. This limit on the number of dogs shall not apply to kennels that have been permitted by the Township in accordance with the provisions of this Ordinance and any other applicable Township regulations and if such kennel complies with existing County and State laws.

**Section 17.23 Roadway Design Standards**

Streets built in the Township from this point forward shall meet the following standards, with the acknowledgment that for any public streets, any more stringent standards of the Berrien County Road Commission or the Michigan Department of Transportation shall apply.

**A. General street design standards for new streets in all districts.**

1. The street layout shall provide for continuation of collector streets in the adjoining subdivision or of the proper projection of streets when adjoining property is not subdivided; or conform to a plan for a neighborhood unit drawn up and adopted by the Planning Commission.
2. The street layout shall provide for a continuous and circuitous road network between and among adjacent developments to reduce the dependence on individual access points to primary roads. This shall include the provision of stub streets to adjacent properties (unless they are not warranted due to adjacent existing development or natural features) or easements for stub streets. Where stub streets are existing on adjacent property, connections shall be made to those existing stubs.
3. Intersecting streets shall be laid out so that the intersection angle is as nearly as possible to ninety (90) degrees. Streets convening at one point shall be reduced to the least practical number.
4. Street names shall not be permitted that might cause confusion for purposes of assessing, mail delivery, or locating by the public with names of existing streets in or near the Township. Streets that will be continuations of existing streets shall be called by the same names as such existing streets.

5. Minimum length for a cul-de-sac road shall be 140 feet. Maximum length shall be 660 feet and shall terminate in a circle 120 feet in diameter. The Township Board and the Road Commission may permit a longer street if necessary and appropriate because of topography or other natural features, existing conditions, or other circumstances.
6. The location of ingress/egress points for a development shall be governed by accepted Access Management standards.

**B. Streets in the A, E-1, and R-1 districts.**

1. No direct access points to individual residences or uses located on new streets in the A, E-1, or R-1 districts shall be permitted along County primary roads.
2. Access points to County primary roads shall be spaced at 330 foot intervals. If an access point is within 33 feet of an adjacent property, provisions for shared access must be provided.
3. Access points along streets or driveways intersecting with County primary roads shall be setback from the right of way of the primary road at least 100 feet.
4. The Township may require shared access or connections between adjacent uses as a means to limit conflict points and preserve capacity along roadways.
5. Street connections to adjacent parcels shall be provided where the Master Plan identifies a future street connection or there is the possibility to create future street connections. Road stubs for future connections shall be improved to the parcel line.

**C. Streets in the C-3 District.**

[Amended 3/8/2010]

1. Access points to County primary roads shall be spaced at least 330 feet apart.
2. The Township may require shared access or connections between adjacent uses as a means to limit conflict points and preserve capacity along roadways.
3. The maximum length of blocks shall be 700 feet.
4. Street connections to adjacent parcels shall be provided where the Master Plan identifies a future street connection or there is the possibility to create future street connections. Road stubs for future connections shall be improved to the parcel line.

**Section 17.24 Restoration of Unsafe Buildings**

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

## CHAPTER 18 STANDARDS FOR SPECIFIC USES

### Section 18.01 Purpose

The purpose of this chapter is to provide additional standards and conditions for specific uses that may be developed within the Township.

### Section 18.02 Adult Care Facility, Senior Housing, and Nursing Homes

The following regulations shall apply to Adult Care Facilities, Senior Housing, or Convalescent and Nursing Homes:

- A. **Minimum Size.** Sites must have a minimum lot area of two (2) acres, and all dwelling units shall have a minimum size of four hundred fifty (450) square feet per unit.
- B. **Access.** All access shall be from a paved road. Walkways shall be provided from the main building entrances to any sidewalks along the adjacent public roads.
- C. **Allowable Density Modification.** The allowable density of the underlying zoning district may be increased by no more than twenty-five percent (25%) for all nursing care units licensed by the State of Michigan, or fifteen percent (15%) for non-licensed nursing care and supportive care units.
- D. **Accessory Uses.** Accessory retail, restaurant, office, and service uses may be permitted within the principal residential building. No exterior signs of any type are permitted for these accessory uses.
- E. **Outdoor Open Space.** The site shall include an outdoor open space and recreation area of not less than five hundred (500) square feet for each occupant of the facility, which shall be located in the side or rear yard areas. This requirement may be modified for facilities with greater than twenty (20) occupants.

### Section 18.03 Adult Uses – Sexually Oriented Businesses

#### A. Authorization.

In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material, which, because of their very nature, have serious operational characteristics that have a negative effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have



particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

However, it is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Regulation is necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

**B. Uses Specified.** Uses subject to these controls as defined herein as “adult uses” in Chapter 2, Definitions.

**C. Site Location Principles.**

1. No adult use shall be located within 1,000 feet, measured from the lot line of the lot upon which the proposed adult use will be situated to the closest lot line of the following: church; monastery, temple, or similar place of worship; cemetery; school, library, public park or playground; non-commercial assembly facility; public office building; licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.); or arcade located in Royalton Township or surrounding communities.
2. No adult use shall be located within 1,000 feet, measured from the lot line of the lot upon which the proposed adult use will be situated to the closest lot line of a single-family home, non-farm residence in the A district, or equivalent in an adjacent jurisdiction. [Amended, 3/8/2010]
3. No adult use shall be permitted within a 1,000-foot radius of an existing adult use. Measurement of the 1,000 feet shall be made from the lot line of the lot upon which the proposed adult use will be situated to the closest lot line of the lot of the closest adult use.
4. No adult use shall be located within 1,000 feet of intersecting centerlines of County roads within Royalton Township or surrounding communities. [Amended, 3/8/2010]

**D. Site Development Requirements.**

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.

2. The building and site shall be designed, constructed, and maintained so that displays, decorations, or signs depicting, describing, or relating to specific sexual activities or specified anatomical areas cannot be observed from adjacent properties or by pedestrians or motorists within the public rights-of-way.
3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Planning Commission.
4. An adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.
5. Access shall be limited to County primary and County local roads, as defined in the Township Development Plan, and screening shall be required from the public right-of-way and abutting properties in accordance with Chapter 20, Landscaping and Screening.
6. Such uses shall be located within a freestanding building (shared or common wall structures or shopping center spaces shall not be considered a freestanding building) with a maximum gross floor area of 8,000 square feet.

**E. Use Regulations.**

1. No person shall reside in or permit a person to reside in the premises of an adult use.
2. No person shall operate an adult use unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
3. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult use without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from Royalton Township, Berrien County, and the State of Michigan.
4. The provisions of this Section shall not apply to hospitals, sanitariums, nursing homes, medical clinics, or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker, or family counselor who is licensed or permitted to practice in the State of Michigan, or to massage therapists who are certified members of the American Massage and Therapy Association or International Myomassethics Federation.

**F. Approval Within 90 Days.**

Site plans shall be reviewed and approved, approved with conditions, or denied within 90 days of the filing of a complete application, a complete site plan, and payment of fees.

**G. Limit on Re-application.**

No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

**Section 18.04 Agricultural Tourism**

**A. Purpose.** It is the intent of this subsection to promote local agricultural production and preservation of rural character by allowing construction and use of facilities for agricultural tourism. These uses include retail and wholesale sales of fresh and processed agricultural produce. The majority of the produce sold fresh or processed has to be locally produced. Activities such as weddings, receptions, and other social functions for hire are permitted provided that they do not negatively affect surrounding properties. Agricultural tourism facilities shall be permitted subject to the following:

**B. Retail and wholesale sales.** Retail and wholesale sales of fresh or processed agricultural produce is allowed provided:

1. Wine (made from grapes or other fruits) that is processed, tasted, and sold under this section is limited to Berrien County appellation wine meaning 51% of the juice will be from fruit grown in Berrien County.
2. Tasting of fresh or processed agricultural products is allowed. Tasting of wine is limited to that produced at the facility and labeled as being Berrien County appellation. Bread, crackers, fruit, and cheese may be served at no charge as part of the tasting of processed products.
3. Logo merchandise may be sold provided:
  - a. The logo merchandise is directly related to the consumption and use of the fresh and/or processed agricultural produce sold at retail.
  - b. The logo is prominently displayed and permanently affixed to the merchandise.

**C. Limitations on sources of produce.**

1. Not less than 51% of all of the agricultural produce sold fresh or processed shall be grown in Berrien County. A significant portion must be grown on the land owned or leased for the specific farm operation by the same party owning and operating the specific agricultural tourism facility.
2. If crop conditions or natural disaster result in a shortage of locally grown fruit for a particular year, the Township Board may approve a larger proportion of produce grown off the land owned or leased for the specific farm operation by the same party owning and operating the specific tourism facility for that particular year, provided that verification of such conditions are presented to the Township Board by a public organization representing the operators that is duly recognized by the Township Board. Processed products produced in such a year shall not exceed the highest volume produced in any of the preceding five years.
3. Wine shall be produced and bottled in the winery and the label shall include “produced and bottled by” immediately preceding the place where bottled or packed in accordance with the Bureau of Alcohol, Tobacco, and Firearms law, article 27CFR, paragraph 4.35 (a) (1). “Produced and bottled by” means 75% of such produced will be fermented and clarified on the site.
4. Dried fruit, a minimum of 51% by weight of which is grown in Berrien County and a minimum of 30% by weight is grown on the owner’s farm, may be dried off premises and sold in the retail store, provided, no more than the amount of fruit sent out for this processing is returned for retail sale.

**D. Public Events.** Participation in Township Wide Events at the facility, open to the public, shall be allowed.

**E. Private Events.**

1. The ability to have private events at an individual facility is subject to special use permit approval. Approval for each individual event does not require a separate special land use permit.
2. The special land use approval will specify a maximum number of events per year, number of persons per event, and hours for events. Events exceeding those totals will require an amended special land use permit.
3. The site plan for the use shall demonstrate how the facility will provide for circulation, parking, sanitation, trash collection, noise, and other factors during events.

4. The Township shall approve a facility's ability to host events when it has demonstrated that the largest event desired by the facility can be handled without significant adverse impacts to adjacent neighbors or Township facilities and services or otherwise creating a detriment to public health, safety, welfare.

**F. Parcel Requirements.**

1. A total of 40 acres of land are required to be devoted to the operation of an agricultural tourism facility.
2. The 40 acres shall be located within Royalton Township and shall be owned or leased for the specific farm operation by the same party owning the specific tourism facility.
3. If there is a winery associated with the tourism facility and/or farm, the same party shall own the 40-acre minimum parcel and the winery. None of the land shall be alienable.
4. The 40 acres may be one parcel or two contiguous parcels and the contiguous parcels may be separated by a road.
5. There shall be no more than one house on the 40-acre parcel containing the tourism use.
6. There shall be a minimum of five (5) acres of crops grown on the same parcels as the tourism use.

**G. Setbacks.** The minimum setbacks for the agricultural tourism use including retail areas and customer parking shall be the following:

1. Side and rear yard setbacks shall be 100 feet.
2. Front yard setbacks shall be 50 feet.
3. There shall be a minimum of 200 feet separation from any pre-existing residence on adjoining property.

**H. Tourism facility size.** The total floor area above finished grade (one or two stores) of any tourism oriented facility, including retail space, shall be no larger than 6,000 square feet. The retail space shall be a separate room and may be the greater of 500 square feet in area or 25% of the floor area above finished grade. The facility may consist of more than one building, however all buildings shall be located on the 40 acres minimum parcel that contains the tourist activity. Underground buildings are not limited to, and may be in addition to, the 6,000 square feet of floor area provided that it is below pre-existing ground level and has no more than one loading dock exposed.

- I. **Pre-existing buildings.** Building built prior to this amendment may be used for a farm processing facility provided that if it is more than 6,000 square feet in size, the retail space room shall not be larger than 1,500 square feet. The Zoning Board of Appeals may consider variances from setbacks for such pre-existing building if it shall first be determined that such extension shall not be harmful to public health, safety, or welfare, particularly with regard to surrounding property interests.
- J. **Parking.** A minimum of one parking space for each 150 square feet of floor area in the retail tasting area shall be provided, plus one space per employee on the longest shift. Parking shall comply with Chapter 19, Parking and Loading of the Zoning Ordinance.
- K. **Signs.** Farm processing facilities are permitted signage in accordance with Section 17.12, Signs.
- L. **Records.** The owner and operator of the tourism facility shall keep up to date records of land ownership, growth, processing, and sales, and make those records available for Township review in order to ensure that the facility is abiding by all of the standards of this Ordinance.

### **Section 18.05 Airports and Aircraft Landing Fields**

Airports, landing fields and platforms, hangars, masts, and other facilities for the operation of aircraft may be permitted subject to the following conditions:

- A. **Plan Approval.** The plans for such facilities shall be approved by the Federal Aviation Agency (FAA) and the Michigan Department of Aeronautics prior to submittal to the Township for review and approval.
- B. **Minimum Standards.** The standards established by the FAA and the Michigan Department of Aeronautics concerning obstruction to air navigation shall be complied with.
- C. **Clear Zones.** All required “clear zones” (as defined by the FAA) shall be owned by the airport facility.
- D. **Aircraft and Vehicle Parking.** Sufficient parking shall be provided for aircraft storage. Additional vehicular parking shall be provided for airport users, and for offices, restaurants, sales rooms, and other uses associated with the airport, subject to the requirements in Chapter 19, Parking and Loading Spaces.
- E. **Airport Layout.** Airports shall be designed so that offices, restaurants, sales rooms, and similar uses are located closest to the road.

- F. **Regulations in the Vicinity of Major Airports.** The following special height limitations shall apply to areas within two (2) miles of the boundary lines of major airports. (For the purposes of applying these regulations, the Royalton Township Planning Commission shall indicate which, if any, airports within, or adjacent to, Royalton Township shall be designated as “major”.)
1. Within seven thousand five hundred (7,500) feet from the nearest airport boundary, no building, structure, object of natural growth, or portion thereof, shall exceed a height above curb level or twenty-five (25) feet, or one (1) foot for each fifty (50) feet that such building, structure or object is distant from such nearest boundary or boundaries, whichever height is greater.
  2. Between seven thousand five hundred (7,500) feet and two (2) miles from the nearest airport boundary, no building, structure, object, or natural growth or portion thereof shall exceed a height above curb level of one hundred and fifty (150) feet.

**Section 18.06 Animal Uses**

- A. **Private Livestock** (cattle, horses, sheep, pigs, etc.), kept for personal (e.g. hobby, 4-H), or non-intensive commercial riding purposes (e.g. private stables).
1. New and expanding animal uses involving fewer than 50 animal units shall be permitted in the A district according to the density table provided below. A minimum of five (5) acres are required for up to three (3) horses or an equivalent number of animals, with one (1) acre required per each additional horse or an equivalent number of animals. A maximum of nine (9) horses or an equivalent number of animal units are allowed on lots eleven (11) acres in size, as shown in the following table.

<b>Private Livestock</b>							
<b>Maximum Number of Animals Allowed</b>							
<b>Minimum Number of Acres</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
Horses	3	4	5	6	7	8	9
Cattle	3	4	5	6	7	8	9
Swine	--	--	--	--	--	3	4
Llamas, Sheep, Goats, Lambs, Alpacas and other Ruminants	3	4	5	6	7	8	9
Turkeys	50	60	70	80	90	100	110
Laying Hens or Broilers	100	120	140	160	180	200	220

2. One (1) additional horse is permitted for each additional acre.

3. The buildings or structures used to house livestock and manure storage areas must be a minimum of one hundred (100) feet from property lines and a minimum of two hundred (200) feet from a neighboring dwelling.
4. Animals must be completely enclosed in a fenced area that is of suitable height and construction to contain the animals.
5. Manure shall be stored in a manner that minimizes odor and run-off. Consideration should be given to partial paving of confinement areas, storage ponds, and other Accepted Agricultural Practices (GAAMPs) regarding runoff control. When manure from confinement manure storage pits or holding areas is removed it shall be incorporated, knifed in, or disposed of in a reasonable manner following GAAMPs and taking into account the season of the year and wind direction. Sufficient area to permit proper incorporation or disposal of manure shall be provided. Manure shall not be applied and left on the soil surface in any area that is within 150 feet of surface water.
6. A plot plan shall be provided to the Building Inspector indicating the distance between barns, corrals, manure storage areas and lot lines, public or private wells and residential structures. Shelter shown on the site must be a proper structure.
7. The owner or his representatives must reside on the property where the animals are kept.

**B. Commercial Livestock - Intensive**

1. An intensive commercial livestock operation is defined as twenty five (25) or more horses or an equivalent number of animal units, as defined by the Michigan Department of Agriculture (see following table). The following table is only to be used for the purpose of comparing types of animals (e.g. five hundred (500) sheep are the equivalent of twenty five (25) horses).

<b>Number of Livestock Intensive Commercial Operation</b>	
<b>Animal Units</b>	<b>50</b>
<b>Animal Type</b>	
Horses	25
Slaughter and Feeder Cattle	50
Mature Dairy Cattle	35
Swine	125
Llamas, Sheep, Goats, Lambs, Alpacas and other Ruminants	500
Turkeys	2,750



<b>Number of Livestock Intensive Commercial Operation</b>	
<b>Animal Units</b>	<b>50</b>
<b>Animal Type</b>	
Laying Hens or Broilers	5,000

(All other animal classes or types of sizes (e.g., Nursery Pigs) not in this table are to be calculated as one thousand pounds live weight equals one animal unit.)

2. Such commercial livestock operations are special uses and subject to a special use permit as provided in Chapter 23. Such approval and operation, must comply with the GAAMPs, all applicable federal, state of Michigan, and county requirements, in addition to Township Ordinances, including the regulations of the Michigan Department of Agriculture, and the Michigan Right to Farm Act, to the extent applicable. For example, buildings or structures used to house commercial livestock operations and manure storage areas must comply with GAAMPs for Site Selection and Odor Control for New and Expanding Livestock Production Facilities as adopted by the Michigan Department of Agriculture, including the submission of a site plan and a Manure Management Plan. All potential sites for new and expanding livestock facilities must follow the MDA site selection review and verification process and must submit a letter of conformance with the GAAMP for Site Selection and Odor Control for New and Expanding Livestock Production Facilities from MDA prior to site plan approval.
3. Animals must be completely enclosed in a fenced area that is of suitable height and construction to contain the animals and comply with all applicable standards and laws.
4. Buildings or structures used to house livestock and manure storage areas must be a minimum of two hundred fifty (250) feet from property lines.

Individuals are advised that the State of Michigan Department of Agriculture periodically revises GAAMPS. Individuals are further advised to contact the Michigan Department of Agriculture for the current version of GAAMPS.

5. The minimum lot size for a commercial livestock operation shall be one hundred (100) acres.

**Section 18.07 Bed & Breakfast Inns**

- A. **Primary Residence.** The dwelling shall be the primary and permanent residence of the bed and breakfast inn operator. An owner or manager shall be on the premises when the bed and breakfast in operation is active.
- B. **Meals.** Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the establishment.
- C. **Guests.** There shall be a maximum of seven (7) rooms for lodging, with a maximum of eighteen (18) guests at any given time. Guests may stay no longer than fourteen (14) days in succession or a total of sixty (60) days in any twelve (12)-month period. Each operator shall keep a log of the names of all persons staying at the bed and breakfast inn operation including the name, arrival, and departure dates.
- D. **Parking.** Off-street parking areas shall be provided in accordance with Chapter 19, Parking and Loading Spaces, outside of any required front yard.
- E. **Landscaping.** Screening shall be provided between adjacent residences and parking areas or any outdoor eating area, in compliance with Chapter 20, Landscaping and Screening.
- F. **Signs.** Bed & Breakfast Inns shall be permitted one sign to identify the establishment. The sign is limited to six (6) square feet and a maximum height of six (6) feet. The sign should be residential in nature and integrated into the design of the house and the site. Preferred sign types include signs that hang from light posts, signs that are hung on fence posts, or signs that are mounted on the building wall. All signage must be submitted and reviewed at the time of site plan approval.
- G. **Retail Sales.** No retail or other sales shall be permitted unless they are clearly incidental and directly related to the conduct of the B & B operation.
- H. **Floor Area.** Not more than 40% of the total floor area of the single-family dwelling shall be utilized for the B & B sleeping rooms.
- I. **Cooking Facilities.** No cooking facilities separate from those of the main dwelling shall be provided for the guests with the exception of outdoor grills.
- J. **Rooms.** The rooms provided for guests shall be part of the primary single-family dwelling and not specifically constructed for rental purposes.
- K. **Application.** An application for a B & B Special Use Permit shall include the following:
  - 1. A floor plan of the single-family dwelling showing the proposed arrangement of the rooms and facilities.

2. A site plan showing the real estate description, location of the single-family dwelling, parking arrangements, and landscape plans.

**L. Permitting.**

1. Prior to granting a Special Use Permit to operate a B & B, the Township Planning Commission shall direct the Zoning Administrator to inspect the premises and report his/her findings to the Planning Commission.
2. The Zoning Administrator shall thereafter, at reasonable times, inspect and review the B & B operation on the permitted premises.
  - a. If such inspection reveals violations of this ordinance or other applicable laws and regulations, the Administrator shall give notice in writing of said violations to the operator of the B & B. Said notice to be delivered personally or by certified mail to the operator.
  - b. If said violations are not corrected within 15 days after delivery of said notice. The Administrator shall revoke the B & B Special Use Permit in writing, delivered in the above described manner, Thereafter the B & B shall no longer be operated upon said premises until a new permit is issued.
  - c. Appeal of denial of a permit or revocation of a permit shall be to the Township Board of Appeals as provided by the Township's Zoning Ordinances.

**Section 18.08 Cemeteries**

The following regulations shall apply to the establishment of new cemeteries or expansion of existing cemeteries:

- A. **Location.** No portion of any cemetery that is located in a wetland or within the 100-year flood boundary shall be developed or platted for gravesites.
- B. **Accessory Building.** A crematorium, mausoleum, columbarium, or other accessory building may be permitted within a cemetery provided that any such building shall be designed and located in accordance with a cemetery master plan, which shall be subject to Planning Commission approval.
- C. **Setbacks.** No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than 100 feet to the boundary line of any residential or commercial district. A crematorium located with a cemetery

shall be setback a minimum of 400 feet from the boundary line of any residential district.

### **Section 18.09 Churches, Synagogues, Temples, and Other Places of Worship, etc.**

- A. **Height.** The maximum height of the principal building shall satisfy maximum height requirements of the subject zoning district. The highest point of chimneys, church spires, cupolas, domes, and towers may be erected to a height not exceeding twice the height of the building, provided that no such structure shall occupy a total area greater than 20% of the roof area of the building. Where a portion of the structure exceeds the maximum height limit, the minimum front, side, and rear yard requirements on the subject lot shall be increased to equal the height of the structure nearest each yard.
- B. **Screening.** Screening shall be provided in accordance with Chapter 20, Landscaping and Screening, where the site abuts a residential district or use.
- C. **Accessory Facilities.** Accessory facilities such as rental, fellowship or social halls, gymnasiums or recreation facilities, preschools, and other similar uses incidental to the primary use shall be permitted, subject to the requirements of this Ordinance.
- D. **Impact Assessment.** The Planning Commission may require an impact assessment for churches, temples or other places of worship. The decision to require an impact statement shall be based on the proposed location of the project, anticipated traffic impacts and surrounding road conditions, sewer facilities and capacities in the area, and other factors deemed worthy of further review by the Planning Commission to determine compliance with the standards of approval for the special land use. The impact assessment would be focused primarily on traffic, and the impact of the proposed use on the existing and future level of service of surrounding roads. However, the assessment should also analyze the impacts on the sewer system and other public services.

### **Section 18.10 Drive-through Establishments**

The following conditions shall apply to all accessory drive-in or drive-through lanes, facilities or establishments, in addition to any required conditions for the primary use.

- A. **Location.** Sites must abut a major road, with all ingress and egress directly to such road.
- B. **Access and Traffic.** Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance for other ingress and egress drives, traffic generated by other buildings or uses, or pedestrian crossings. All maneuvering areas and stacking lanes shall be located within the site. The Planning Commission may request that the applicant provide a traffic impact assessment that analyzes the projected impact of the proposed use on the existing and future levels of service on adjacent roadways.

- C. **Vehicle Stacking.** Sufficient room shall be provided on site for vehicle stacking and line cueing prior to approaching the drive-in or drive-through service, in accordance with Chapter 19 of this Zoning Ordinance.
- D. **Screening.** Screening shall be provided on those side or rear lot lines abutting a residential district or use in accordance with Chapter 20, Landscaping and Screening.
- E. **Performance Standards.** Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.
- F. **Menu boards.** Menu boards may be erected, subject to the following:
  - 1. Such signs shall be located on the interior of the lot and shall be shielded so that they are not visible from the street right-of-way or adjacent properties.
  - 2. The location, size, content, coloring or manner of illumination of a menu board shall not constitute a traffic or pedestrian hazard, or impair vehicular or pedestrian traffic flow in any manner.
  - 3. The total sign area of all permitted menu boards shall not exceed 48 square-feet.

### **Section 18.11 Essential Services**

- A. Essential services serving Royalton Township shall be permitted as authorized and regulated by law and other ordinances of the Township.
- B. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the Township shall be considered a Special Use and be required to go through the procedures as stated in Chapter 23, Special Land Use Permit Review and Approval Procedures. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers, and further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the Township.
- C. The Zoning Board of Appeals may permit the erection and use of a building, or an addition to an existing building of a public service corporation for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.

- D. The following additional standards shall apply to structures and uses not located in the public right of way:
1. **Need.** Applicants must provide evidence of the necessity for the proposed location of all public utility and essential service structures and uses.
  2. **Setbacks.** Electric or gas regulator equipment and apparatus shall be set back a minimum of 20 feet from all lot lines. All principal structures shall be not less than 50 feet from any residential district lot line.
  3. **Screening.** Screening requirements are subject to Planning Commission approval based on analysis of potential effect on surrounding properties. Any permitted storage yards shall be screened from adjacent residential districts or uses in accordance with Chapter 20, Landscaping and Screening.
  4. **Use Requirements.** Such structures and uses shall be subject to conditions or limitations designed to minimize any adverse impacts from the use on surrounding properties. Structures shall be architecturally compatible with the surrounding area character.

### Section 18.12 Home Occupations

- A. **Purpose.** The purpose of the home occupation provisions is to allow for home occupations that are compatible with the neighborhood in which they are located. Certain limited nonresidential activities may be appropriate in residential districts and structures because they are compatible with the character of those districts. The standards provided for herein are intended to insure compatibility of home occupations with other permitted uses and with the character of the neighborhood. Some home occupations are more intensive and require conditions or limitations to insure compatibility. Uses with these characteristics require Planning Commission approval.

An occupant of a residence may apply for a home occupation permit to give instruction in a craft or fine art within the residence. This home occupation shall be governed and permitted like all others in the Township and may be regulated based on noise, advertising, traffic, hours of operation or other conditions that may accompany the use of the residence.

- B. **Procedures.** Home occupations complying with the criteria established herein may be allowed after receipt of a home occupation permit issued by the Zoning Administrator.
1. **Process.**
    - a. Applications must be filed by the home owner requesting the home occupation permit. A fee, established by the Township Board, shall be collected by Royalton Township.

- b. The Zoning Administrator must do an on sight inspection to ensure all applicable safety and building codes that would affect home occupations are adhered to.
  - c. The Zoning Administrator shall make recommendations for approval or denial of a home occupation based on the findings of the inspection and/or required credentials.
  - d. If the home occupation satisfies the Criteria for Home Occupations provided in Section C below as well as State licensing requirements, then the decision of the Zoning Administrator shall be final. If the home occupation exceeds the Criteria for Home Occupations provided in Section C below, then the recommendation shall be forwarded to the Planning Commission and the proposed home occupation shall be considered a special land use, requiring a public hearing following the procedures in Section 23.03. The Zoning Administrator shall make a recommendation within fifteen days of receiving a complete application.
  - e. Existing home occupations or special land use permits for home occupations must be renewed annually by application and pay a renewal fee as set by action of the Royalton Township Board of Trustees. Providing there are no changes to the home occupation or special land use for the home occupation request, the Zoning Administrator can renew the permit without Planning Commission approval.
  - f. Notification must be given to the township in writing to cancel a home occupation permit.
  - g. Home occupations or special use permits are non-transferable.
2. **Application.** Application for a home occupation permit shall be made to the Zoning Administrator on a form provided by Royalton Township and shall be accompanied by the prevailing non-refundable filing fee as established by resolution of the Township Board.
  3. **Time limit.** All home occupation permits shall be valid to the original applicant for a period of one year from initial date of approval.
  4. **Voiding of permit.** The Zoning Administrator may void any home occupation or special use for home occupation permit for noncompliance with the criteria set forth in this chapter. Revocation may take place at any time prior to the expiration date of the permit. If the permit is revoked or is not renewed, it becomes null and void, and said use shall be terminated.

5. **Appeal to Zoning Board of Appeals.** The decision of the Zoning Administrator and/or Planning Commission concerning approval or revocation shall be final unless a written appeal is filed with the Zoning Board of Appeals within thirty calendar days after the decision is made and written notice is given to the applicant. An appeal may only be filed by a person aggrieved by the decision or by an officer, department, or board of the Township.
  6. **Inspection.** Home occupation applicants shall permit a reasonable inspection of the premises by the Zoning Administrator to determine compliance with this chapter.
  7. **Renewal.** A home occupation permit or special use for home occupation permit shall be renewed annually by the original applicant, provided there has not been any violation of the provisions of the chapter. Requests for renewal shall be submitted to the Zoning Administrator in writing, accompanied by the prevailing renewal fee as set by action of the Royalton Township board, as established by the township board resolution, on or before the expiration of the permit.
- C. **Criteria for home occupations.** Home occupations shall be allowed by permit approved by the Zoning Administrator if in conformance with all of the following regulations:
1. No person other than the occupants residing on the premises shall work on the premises in such home occupation.
  2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than 25 percent of the residential floor area of the dwelling unit shall be used in the conduct of the home occupation.
  3. 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. There shall be no advertising, display, or other indications of a home occupation on the premises.
  4. No traffic shall be generated by such home occupation in greater volume than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
  5. No equipment or process shall be used in such home occupation, which requires hazardous materials or creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises. Hazardous material shall include but not be limited to (1) any material listed in the list of toxic pollutants found in 40



CRF § 401.15 as amended; (2) any material designated as hazardous material by applicable state law; (3) any compressed gas, explosive, flammable liquid, flammable solid oxidizer, poison or radioactive material.

6. No storage or display of goods shall be visible from outside the structure.

D. **Penalty.** Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of the section shall be in violation of this ordinance and shall be subject to the penalties and enforcement measures provided in Chapter 26 of the Township Zoning Ordinance.

E. **Existing special uses.** Where a use is classified as a special use and exists as a permitted use at the date of the adoption of the ordinance from which this chapter is derived, it shall be considered a legal use, without further action of the Township Board, the Zoning Administrator, the Zoning Board of Appeals or the Planning Commission.

### **Section 18.13 Indoor and Outdoor Recreation Centers and Golf Courses (Excluding Public Parks)**

A. **Permitted Uses.** Permitted uses may include, but shall not be limited to recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice or in-line skating, and similar activities, bowling alleys, swimming pools open to the general public or operated by a private non-profit organization, archery and shooting ranges, music concert pavilions, and band shells.

B. **Accessory Uses.** Permitted accessory uses to the above permitted uses may include, but shall not be limited to refreshment stands, retail shops selling items related to the above uses, maintenance buildings, offices for management functions, spectator seating, and service areas, including locker rooms and rest rooms. Accessory retail or commercial facilities shall be designed to serve only the patrons of the recreation facility, unless otherwise listed as a permitted use in the district where the facility is located.

C. **Setback Requirements.** No structure or spectator seating facility shall be located within 50 feet of a property line, nor within 200 feet of any residential district or use. Pools shall be at least 100 feet from any residential zoning district.

D. **Golf Courses.**

1. **Setbacks.** Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course.

- a. **Golf Courses.** Golf Course fairways shall be designed so that existing or future dwelling units are located a minimum of 200 feet from the center of the fairway.
  - b. **Driving Ranges.** The minimum length of a driving range shall be 300 yards, measured from the tee to the end of the range. Tees shall be setback at least 25 yards from each side property line, unless the applicant can demonstrate that golfers will be oriented toward the center of the range so that golf balls will not be hit beyond the side property lines. Netting is prohibited unless the Planning Commission determines the netting would be compatible with surrounding uses.
  - c. **Club Houses and Accessory Uses.** No club house or accessory structure shall be located nearer than five hundred (500) feet to any dwelling on another zoning lot.
2. **Access.** Golf Courses and Country Clubs shall have direct access onto a paved public road.
  3. **Performance Standards.** Site size shall be sufficient to retain errant balls within the site. The Planning Commission may restrict lighting and hours of operation.
  4. **Site Plan Requirements.** The site plan shall illustrate expected trajectory or ball dispersion patterns along fairways and for driving ranges where adjacent to residential uses, buildings, parking lots or public streets.
  5. **Accessory Uses.** A Golf Course and Country Club is permitted to operate a restaurant, a bar, and a retail facility for the purposes of selling items to be used on the golf course. The Club shall be available for rental for special events. All uses are subject to approval by the Planning Commission and must be identified on the site plan submitted for approval. Additional uses considered after approval must be brought back to the Planning Commission for approval as an amendment to the site plan.

**E. Performance Standards.**

1. The location, layout, design, or operation of recreation facilities shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby properties.
2. A plan to control loitering and litter shall be provided.
3. Recreation uses shall comply with Section 17.06, Performance Standards.
4. The applicant shall provide documentation that the site area is adequate, according to national standards for the use.

- F. **Impact Analysis.** The Planning Commission may require an Impact Analysis be submitted analyzing the impacts of the proposed use on the traffic surrounding the site, public uses provided to the site, and the existing natural features on the site and immediately surrounding it.

#### **Section 18.14 Junkyards and Salvage Yards**

- A. **Setbacks.** A minimum setback of 250 feet shall be maintained between the front property line and the portion of the lot on which junk materials are placed or stored. All buildings, fencing, and junk materials shall be set back at least 250 feet from any road or highway right-of-way line, and at least 300 feet from any property line.
- B. **Screening.** The entire junk yard or salvage yard site shall be screened with an eight (8) foot obscuring masonry wall, or solid wood fence constructed in accordance with Chapter 20, Landscaping and Screening, and Section 17.16, Fences. The wall or fence shall be uniformly painted and maintained in neat appearance, and shall not have any signs or symbols painted on it.
- C. **Surfacing.** All roads, driveways, parking lots, and loading and unloading areas shall be paved or treated in a manner approved by the Zoning Administrator so as to confine any wind-borne dust within the boundaries of the site.
- D. **Regulated Activities.** Open burning shall be prohibited. All fluids shall be drained from vehicles and disposed of in a proper manner prior to the vehicles being stored on the site.
- E. **Permits.** All required Township, County, and State permits shall be obtained prior to establishing a junkyard.
- F. **Stacking.** Junk, automobiles, or other debris shall not be stacked in a manner such that the material could be visible outside the site. Junkyards shall not be located in areas where it would be impossible to screen them from view from adjacent properties or public roads.

#### **Section 18.15 Kennels**

- A. **Minimum Site Size.** Sites shall have a minimum lot area of one (1) acre.
- B. **Screening.** Structures where animals are kept, outdoor runs, and exercise areas shall be screened in accordance with Chapter 20, Landscaping and Screening.
- C. **Performance Standards.** The Planning Commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances related to noise or odor depending on the zoning and the adjacent development.

- D. **Setbacks.** Structures where animals are kept, outdoor runs and exercise areas shall not be located in any required yard setback areas, and shall also be set back at least 50 feet from dwellings on adjacent lots.

### Section 18.16 Multiple Family and Townhouse Residential Developments

[Amended 3/8/2010]

Multiple-family dwellings and townhouse developments shall comply with the following:

- A. **Architectural Details.** Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing, or other decorative finish materials. All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing.
- B. **Street Design and Vehicle Circulation.** Ingress and egress from the public streets shall be designed to minimize congestion and interference with normal traffic flow. All interior roads, drives, and parking areas within a multi-family development shall be hard surfaced and provided with curbs and gutters. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto the adjacent lots. All access drives shall be twenty-four feet (24') in width. The Planning Commission may require a Traffic Impact analysis, which would analyze the projected impact of the proposed use on the existing and future levels of service of surrounding roadways. Street connections may be provided to adjacent neighborhoods and parcels in residential districts with Planning Commission approval.
- C. **Pedestrian Circulation.** Minimum five (5) foot wide concrete sidewalks shall be provided from parking areas, public sidewalks, and recreation areas to all building entrances. Public sidewalks shall be provided along collector roads and streets with a minimum width of five (5) feet.
- D. **Parking.** Minimum parking requirements shall be based on the standards of Chapter 19, Parking and Loading. The Planning Commission may give credit towards parking requirements where abutting on-street parking is available. All off-street parking spaces must be screened from view of any public road, pedestrian path, or adjacent residential use in compliance with Chapter 20, Landscaping and Screening.
- E. **Open Space.** Open space or active recreation areas (including but not limited to seating areas, playgrounds, swimming pools, walking paths and other recreational elements in accordance with the intended character of the development) shall be provided at a ratio of at least 20% of the gross area of the development. The minimum size of each area shall be not less than 5,000 square feet, and the length to width ratio of each area, as measured

along the perimeter, shall not exceed four to one (4:1), except that up to 25% of the requirement may be met by providing walking and multi-purpose trails. Such areas shall be centrally and conveniently located to be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.

- F. **Utilities.** All multiple-family dwellings shall be connected to the public sewer and public water system.
- G. **Accessory Uses.** Buildings for a management office, sale or leasing of units, recreation, social gathering, laundry, maintenance, and/or other accessory uses shall be permitted interior to and accessory of multi-family residential development. Such structures shall meet all setback and separation requirements of the principal structures. Accessory uses are subject to the approval of the Planning Commission and must be identified on the site plan.
- H. **Other Requirements.** Adequate landscaping and screening shall be provided along all property lines that abut a lower intensity residential district or use, and along all street frontages. Parking or storage of recreational vehicles, boats, utility trailers or similar items shall be prohibited, except in areas designated on an approved final site plan and properly located and screened to accommodate such use.

### **Section 18.17 Nursery Schools and Child Care Facilities**

The following regulations shall apply to Nursery Schools, Child Day Care Centers, Child Caring Institutions, and Pre Schools:

- A. **Licensing.** In accordance with applicable state laws, all child care facilities shall be registered with or licensed by the Department of Human Resources and shall comply with the minimum standards outlined for such facilities.
- B. **Outdoor Play Area.** A minimum of 150 square feet of outdoor play area shall be provided and maintained per child provided that the overall size of the play area shall not be less than 5,000 square feet. The outdoor play area shall be suitable fenced and screened from abutting residentially zoned or used land.
- C. **Frontage.** Childcare centers shall front onto a paved thoroughfare or primary road. Childcare centers and family day care homes may be permitted on unpaved roads, subject to Special Land Use approval.
- D. **Setbacks.** Childcare centers shall have a minimum side yard setback of at least 25 feet.
- E. **Group Child Day Care Homes.** Licensed group child day care homes shall be subject to the conditions in Section 18.29

**Section 18.18 Outdoor Sales or Display Areas for Sales or Rentals of Goods, Products, Building Supplies, Hardware, Landscaping, and Other Items**

- A. **Intent.** The following standards and requirements shall apply to established commercial uses with outdoor sales or display areas such as lumberyards, hardware stores, or landscape supply stores. It shall not apply to garage sales or personal sales of that sort.
- B. **Setback Requirements.** Outdoor sales or display areas shall be set back a minimum of 10 feet from any parking area, driveway or access drive, and 20 feet from any street right-of-way. No outdoor sales area shall be located within 100 feet of any residential district or use.
- C. **Sidewalk Standards.** A minimum of six (6) feet of sidewalk width shall be maintained free for pedestrian circulation through all display areas.
- D. **Performance Standards.** Outdoor sales and display areas must be kept clean and litter-free, and outdoor waste receptacles shall be provided. Written procedures for cleaning and waste containment and removal responsibilities shall be included with all applications and approved as part of site plan review. Vending machines and devices for the outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited.
- E. **Signs.** Additional signs shall not be permitted beyond those permitted for the primary use.
- F. **Surface.** Sales and display areas shall be provided with a durable and dustless surface, and shall be graded and drained to dispose of all surface water.
- G. **Landscaping and Screening.** Such sales or display area shall be separated from the parking area by landscaping, a decorative wall or other architectural feature in accordance with Chapter 20, Landscaping and Screening. A six (6) foot tall fence or wall, greenbelt, or buffer strip may be required along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.

**Section 18.19 Outdoor Sales or Display Areas for Sales or Rentals of Farm Equipment, Machinery, Automobiles, Trucks, Recreational Vehicles, Boats, and all other Motor Vehicles.**

- A. **Intent.** The following standards and requirements shall apply to established commercial uses with outdoor sales or display areas for motorized vehicles, such as new and used car dealerships, farm equipment sales, and marine or recreational vehicle dealerships. It shall not apply to garage sales or personal sales of that sort.
- B. **Setback Requirements.** Outdoor sales or display areas where vehicles and equipment are stored or displayed shall satisfy all required setback standards for parking facilities in

the applicable zoning district. No outdoor sales area shall be located within 100 feet of any residential district or use.

- C. **Lighting.** The lighting for the sales lot shall be proposed at the time of application and shall satisfy the standards of Section 17.19.
- D. **Performance Standards.** Outdoor sales and display areas must be kept clean and litter-free, and outdoor waste receptacles shall be provided. Written procedures for cleaning and waste containment and removal responsibilities shall be included with all applications and approved as part of site plan review. Devices for the outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited.
- E. **Signs.** Additional signs shall not be permitted beyond those permitted for the primary use. Temporary signs, flags, pennants or inflatable devices must be approved by the Township per the Standards of Section 17.11.
- F. **Surface.** Sales and display areas shall be provided with a paved surface, and shall be graded and drained to dispose of all surface water.
- G. **Display.** Outdoor sales or display areas of motor vehicles shall, at a minimum, conform to the Design Requirements in Section 19.05, subsections D, E, F, H and I.
- H. **Structures.** Sales, office, or storage structures shall be located on the same parcel or lot as the vehicle sales and storage lot. Vehicles sales and storage shall not be accomplished on a parcel without a principal structure.
- I. **Landscaping and Screening.** Vehicle sales and storage areas shall be screened from adjacent residential uses or districts by landscaping, a decorative wall or other architectural feature in accordance with Chapter 20, Landscaping and Screening. A six (6) foot fence or wall, greenbelt, or buffer strip may be required along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.

## **Section 18.20 Outdoor Seasonal Events**

- A. **Seasonal Events.** Seasonal events are those events that occur for only a short period within one year but take place regularly every year. Examples of seasonal events include Christmas tree sales, hay rides, pumpkin sales, corn mazes, neighborhood garage sales, and other similar events. (Seasonal events shall also meet the standards contained in Section 17.07.C.)
- B. **Temporary Uses.** Seasonal events that do not occur on an annual basis shall be subject to the Temporary Use standards and procedures of Section 17.07, Temporary Uses.

- C. **Annual Events.** The following procedure shall be followed for annual events:
1. An application for site plan review shall be filed with the Planning Commission.
  2. A site plan shall be submitted including those elements contained in Section 22.03 that the Zoning Administrator and Planning Commission believe are necessary for a thorough review.
  3. The application must provide a schedule of days when the event will operate and the anticipated hours of operation. The application should also indicate how many years it is expected to continue.
  4. The Planning Commission shall make a recommendation whether to approve, approve with conditions, or deny the permit in accordance with the criteria established in Section 22.06. The recommendation and all application materials shall be forwarded to the Township Board for a final decision. The Board shall determine whether to approve, approve with conditions, or deny the application in accordance with the criteria established in 22.06. The Board shall also consider the size of the operation, the anticipated impacts on traffic and public services, and/or the anticipated impacts to adjacent properties.
  5. If approved, the permit shall last for one (1) year from the date of approval.
  6. The Zoning Administrator may approve renewal of the permit in subsequent years unless it is determined that there is a substantial change to the originally approved site plan or a violation of the condition of approval has occurred. The renewal application will then be required to go back to the Planning Commission for its approval.
- D. **Traffic.** All such sales and events shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.
- E. **Parking.** Adequate parking and ingress and egress to the premises shall be provided.
- F. **Temporary Structures in Off-Season.** During the off-season, all temporary structures, fences, light stands, signs, or other display materials shall be removed immediately upon ceasing business for the season.
- G. **Signs.** Signs shall conform to the provisions of Section 17.12, Signs, for the district in which the use is located.
- H. **Lighting.** Any lighting shall be directed downward and controlled so as not to create a nuisance to neighboring property owners. Lighting shall be in conformance with Section 17.20, Exterior Lighting.



**Section 18.21 Radio and TV Transmission Towers**

- A. At a minimum, the antenna or tower shall be setback a distance equal to 110% of its height from any adjoining lot line. Accessory structures and facilities for the tower must satisfy the minimum building/structure setback requirements for the zoning district.
- B. **Separation of Towers:** The following separation distances shall apply to all towers and antennas, unless reduced by the Planning Commission when the intent of this Ordinance would be better served by the reduction. Separation distances shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in the following table.

Off-Site Use/ Designated Area	Separation Distance
Single family detached or two family dwelling units	The greater of 200 feet or twice the height of the tower.
Approved, but not constructed, residential subdivisions or site condominium projects	
Vacant land in a Residential District	The greater of 100 feet or one and a half times the height of the tower.
Multiple family dwellings	
Non-Residential Districts	Same as for main building setbacks.

- C. **Type of Tower.** A lattice tower or guy-wired tower shall not be permitted as an antenna support structure unless approved by the Planning Commission after consideration of specific and detailed documentation describing the engineering rationale why a monopole construction will not be sufficient and why the proposed structure is necessary to provide a service to the community.
  - 1. The documentation shall also describe the safety impacts of the proposed structure as well as provide a plan for mitigating the aesthetic impacts. The alternative tower’s ability to accommodate additional antennas will be a consideration of approval.
  - 2. Where guy lines or similar support structures are proposed, such support structures shall be located to satisfy the setback requirements of the subject zoning district. All requirements for accessory structures included herein shall apply to these locations.
- D. **Height.** The maximum allowable height is 220 feet.

- E. **Security.** The base of the tower and accessory facilities and structures shall be enclosed by fencing or other suitable enclosure, to be determined by the Planning Commission, not less than six (6) ft. in height, sufficient to restrict access to authorized personnel only. The tower and facilities shall also be equipped with an appropriate anti-climbing device.
- F. **Landscaping.** In all zoning districts, existing vegetation shall be preserved to the maximum extent possible. Landscaping shall be placed completely around the transmission tower and ancillary facilities located at ground level except as required to access the facility. Such landscaping shall consist of evergreen vegetation with a minimum planted height of six (6) ft. placed densely so as to form a visual screen. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well maintained. Landscaping shall be installed on the outside of any fencing.
- G. **Lighting.** The tower shall not be illuminated by artificial means and shall not display strobe lights, unless specifically required by the Federal Aviation Administration (FAA) or other state authority for the tower. If lighting is required it shall be oriented inward so as to not project onto surrounding property or roadways.
- H. **Display.** No signs, striping, graphics or other attention-getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signs with a surface area of no more than three (3) square feet. Such signs shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).
- I. **Weather Resistance.** The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area. The transmission tower and attached antennas shall be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the Township.
- J. **Ancillary Structures/Buildings.** All buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.
- K. **Removal.** All towers, antennas, tower substructures and ancillary facilities shall be removed within six (6) months from the time the facilities have ceased being used for their intended purpose. The responsibility to remove shall be borne by the owner and operator of the tower, antenna, substructure or facility and by the real property owner upon which the tower, antenna, substructure or facility is located. The site must be restored to the extent possible with appropriate landscaping to its pre-transmission transmission tower appearance. The Township may grant one (1), six (6) month extension where a written request has been filed, within the initial six (6) months.

The Township may require the posting of an open-ended bond before zoning permit issuance to ensure removal of the transmission tower, substructure or antennas after the facility no longer is being used.

**Section 18.22 Retail Stores Greater than 50,000 Square Feet**

- A. **Access and Circulation.** Sites must abut a paved County primary road with all ingress and egress directly to such street. The design shall ensure that vehicular circulation patterns are appropriately designed to eliminate potential conflicts between traffic generated by the site, and traffic on adjacent streets. The number and location of curb cuts shall be the minimum necessary to provide adequate access to the site.
- B. **Outlots.** The site design, circulation, parking layout, and building architecture of all outlots shall be complementary to and fully-integrated with the design of the overall site. Separate curb cuts for any outlots shall be prohibited, except where determined to be necessary by the Planning Commission.
- C. **Landscape and Screening.** A greenbelt with a width of twenty feet (20) shall be provided along all street frontages and side or rear yards to screen the view of the property from street rights of way and adjacent residential districts or uses in accordance with Chapter 20, Landscaping and Screening, along with adequate screening for all loading facilities, trash dumpsters, and mechanical equipment.
- D. **Loading and Unloading Area.** Outdoor storage, pickup, delivery, loading, and unloading of merchandise, equipment, or other items, mechanical equipment, and trash disposal or compaction shall not occur within fifty(50) feet of a residential district or use, nor shall such activities take place between the hours of 10:00 p.m. and 7:00 a.m. No delivery vehicles within fifty feet (50) of a residential property shall have its engine, refrigeration unit or generator running between the hours of 10:00 p.m. and 7:00 a.m. Trucks or trailers parked at a loading dock may be unloaded onto the loading dock between the hours of 10:00 p.m. and 7:00 a.m. provided that all activity occurs inside the truck or trailer or within the building.
- E. **Pedestrian Walkway.** A six foot (6') wide concrete sidewalk shall be provided from the public sidewalk, if provided to the main entrance in a manner that effectively separates pedestrian from vehicular traffic. Driveway crossings shall be clearly delineated with pavement striping.
- F. **Architecture.** The façade of the building shall be divided into sections to provide an appearance that the large structure is actually multiple smaller storefronts. The façade shall have clear and distinct breaks in style and architecture at least once every sixty (60) feet. Appropriate breaks shall include but not be limited to: a change in materials, a change in character or style, a change in setback to a degree greater than two (2) feet, or a similar architectural variation that clearly distinguishes distinct parts of the façade.
- G. **Removal.** The Township may require the posting of an open-ended bond before zoning permit issuance to ensure removal of the retail store, after the facility no longer is being used. If the retail store is vacant for a period of one (1) year the Planning Commission

shall require that the building owners submit a Plan for the reuse or redevelopment of the property. If the retail store is vacant for a period of two (2) years, the Township may call in the bond and raze the structure.

### **Section 18.23 Roadside Stands and “U-Pick” Produce Farms**

The following regulations shall apply to all roadside stands and farms designed for customers to visit and pick their own produce in the fields:

- A. **Lot Size.** Facilities five (5) acres or larger must receive special land use approval. For facilities smaller than five (5) acres, site plan approval shall be required.
- B. **Building Size.** Any building containing a roadside stand shall be at least fifty (50) square feet but no greater than six hundred (600) square feet in size.
- C. **Trash Containers.** Suitable trash containers shall be placed on the premises for public use. The site shall be maintained in a neat and orderly condition at all times.
- D. **Structures.** All structures, including permanent buildings and any temporary tables, stands, display racks, tents, or other temporary structures, must be shown on the site plan submitted for approval.
- E. **Building Setbacks.** All permanent structures must abide by the established setback standards for the zoning district. Temporary stands, tables, and other structures that are brought out during the day and stored overnight can be located in the front yard provided they do not block safe access to the site, there is still adequate parking provided on the site, all structures are located no closer than forty-five (45) feet from the nearest edge of the paved surface of road, and all structures are brought in and stored every night.
- F. **Parking.** Off-street parking may be provided in the required front yard setback area. Parking shall conform to the regulations of Chapter 19, Parking and Loading Spaces, except that hard-surfacing shall not be required.
- G. **Signs.** Roadside stands and “U-pick” Produce Farms shall be permitted one (1) ground sign and one (1) wall sign consistent with the standards of Section 17.11, Signs.
- H. **Ingress and Egress.** Approved facilities shall provide safe access in and out of the proposed site based on the conditions of the site on the adjacent roadway, as determined by the Planning Commission and any other appropriate review agency responsible for access to the road system.
- I. **Local Goods.** The roadside stand shall be for the purpose of sale of produce and goods grown and produced on the farm or within Berrien County, but not including live animals.

- J. **Schedule.** The application shall indicate an approximate schedule of when the uses will operate including the months of the year, the days of the week, and the hours of the day.
- K. **Standards for Approval.** In considering such authorization, the Planning Commission shall consider the following:
1. The use shall not be located so as to create traffic conflicts or occupy productive farmland;
  2. The location of the proposed use in relation to other uses should be such that any dust, noise, or traffic generated by the proposed use does not impact the surrounding uses.
  3. The building(s) and/or structure(s) to be utilized for the proposed use shall be of the same character and nature of the surrounding uses. The size, nature, and character of the proposed use shall not detract from the surrounding uses;
  4. The produce and goods to be sold at the roadside stand shall be raised or produced locally; and
  5. The proposed parking shall provide adequate space and drainage for the projected customer base.

#### **Section 18.24 Schools, Public and Private**

Schools and educational institutions shall be subject to the following additional standards:

- A. The minimum lot size shall be five (5) acres.
- B. No buildings shall be located nearer than 100 feet from any property line.
- C. Such facilities shall be located on County Primary roads, as indicated in the Township Master Plan.

#### **Section 18.25 Self-Storage Facilities**

- A. **Permitted Uses.** The use shall be limited to storage of household and non-hazardous commercial goods. However, no commercial business shall be conducted out of an individual storage unit. An accessory caretaker's residence shall be permitted for the person or persons responsible for the operation of the facility.

- B. **Minimum Lot Size and Setbacks.** The minimum lot area shall be three (3) acres. The minimum building and parking setback shall be 50 feet from any street right-of-way line, residential district or off-site residential use.
- C. **Screening and Landscaping.** Screening shall be provided on those side or rear lot lines abutting a residential district or use in accordance with Chapter 20, Landscaping and Screening.
- D. **Parking and Loading.** All parking, loading and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties. All parking and loading shall conform to the provisions of Chapter 19, Parking and Loading Spaces.
- E. **Storage.** All storage shall be completely within enclosed structures.

**Section 18.26 Service Stations, Car Washes, and Auto Repair Facilities (Both Major and Minor Repair Facilities)**

- A. **Setbacks.** Pump island canopies shall be setback a minimum of 20 feet from any right-of-way line. Fuel pumps and car washes shall be located a minimum of 30 feet from any right-of-way line or side or rear yard setback line. All buildings shall maintain a 50-foot setback from any residential district or use.
- B. **Access.** Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance for other ingress and egress drives, traffic generated by other buildings or uses, or adjacent pedestrian crossings. Ingress and egress openings shall have a defined extent and shall be no wider than the minimum necessary to satisfy engineering and County standards. The minimum number of access points to ensure safe traffic flow shall be permitted.
- C. **Overhead Doors.** Overhead doors shall not face a residential district or use. The Planning Commission can modify this requirement upon a determination that there is no reasonable alternative, subject to additional screening being provided.
- D. **Pump Island Canopy.** The proposed clearance of any pump island canopy shall be noted on the site plan. The height of the pump island canopy shall also be approved by the Township Fire Chief. Any signs, logo or identifying paint scheme on the canopy shall be reviewed by the Planning Commission. All lighting fixtures under the canopy shall be fully recessed into the canopy structure and in compliance with the external lighting standards of this Ordinance.
- E. **Repair and Service Use Limitations.** All equipment and service bays shall be entirely within an enclosed building, and all repair work shall be conducted completely within an

enclosed building. Repair stations shall not be permitted on sites immediately adjacent to any residential zoning district or use.

- F. **Automobile Repair.** Major or minor repair of automobiles shall be identified as follows:
1. **Minor Repair.** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
  2. **Major Repair.** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision services such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.
- G. **Temporary Vehicle Storage.** The storage, sale, rental, or display of new or used cars, trucks, trailers, and any other vehicles, vehicle components and parts, materials, commodities, supplies, or equipment on the premises is prohibited except in conformance with the requirements of this Section and Ordinance. Inoperable vehicles shall not be stored or parked outside for a period exceeding 30 days for repair stations and 24 hours for all other facilities. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
- H. **Noise and Odors.** There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of the service building. Buildings containing service and repair activities shall have appropriate filtering systems to prevent emission of paint odors. Building walls facing any residential districts or uses shall be of masonry construction with soundproofing.
- I. **Screening.** Screening shall be provided on those side and rear lot lines abutting a residential district or use in accordance with Chapter 20, Landscaping and Screening. All wrecked or damaged vehicles shall be screened from public view, and shall not be parked or stored within any front yard area. All washing facilities shall be located completely within an enclosed building. A permanent screening fence or wall not less than six (6) feet in height shall be constructed along any property line which abuts a residential zoning district.
- J. **Traffic Impacts and Pollution Prevention.** The Planning Commission may request a traffic impact study to evaluate the impacts of the proposed development on the existing level of service and traffic patterns surrounding the site. They may also request a Pollution Incidence Protection Plan (PIPP) describing measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves.

- K. **Drainage.** All drainage shall be trapped and contained on site per code requirements. Chemicals, waxes, and cleaning agents used in the wash shall be thoroughly removed from the wastewater before it is passed from the site.

### **Section 18.27 Stables, Commercial**

All stables and academies for the rearing, schooling, and housing of horses, mules, ponies, and similar riding animals shall meet the following requirements:

- A. Stable sites shall have a minimum of ten (10) acres. [Amended, 3/8/2010]
- B. All structures wherein animals are kept shall not be less than 150 feet from any occupied dwelling or to any adjacent building used by the public.
- C. When animals are fed hay and oats or other feed outside of a building, the feeding area shall be located not less than 150 feet from any occupied dwelling or any adjacent building used by the public. Corrals where animals graze only shall not be considered feeding areas.
- D. Stables shall be enclosed by a suitable fence, and shall be maintained so that odor, dust, noise or water drainage shall not constitute a nuisance or hazard to adjoining premises.
- E. The number of animals permitted on site shall be governed by Section 18.06, Animal Uses.

### **Section 18.28 Stables, Private**

Private stables shall be personal use stables on residential or agricultural property not used for commercial or financial gain. Animals housed in these stables shall be limited to those owned by the property owners, who reside on the property. [Amended, 3/8/2010] The following standards shall apply to private stables:

- A. A minimum of five (5) acres of land is required to maintain a private stable.
- B. The number of animals permitted on site shall be governed by Section 18.06, Animal Uses
- C. Such stables, animal houses, and feed stations shall be located at least one hundred (100) feet from the nearest residence or business district.
- D. Stables shall be enclosed by a suitable fence, and shall be maintained so that odor, dust, noise or water drainage shall not constitute a nuisance or hazard to adjoining premises.



**Section 18.29 State Licensed Residential Facilities**

State licensed residential facilities are structures constructed for residential purposes, licensed by the State pursuant to the Adult Foster Care Facility Licensing Act, PA 218 of 1979 or PA 116 of 1973. The Michigan Zoning Enabling Act, PA 110 of 2006, considers these uses residential uses of property, and they are hereby considered permitted uses in residential districts, subject to the following:

- A. State licensed residential facilities, as defined by the State, are facilities providing 24-hour care and supervision to six or fewer persons at a time.
  - B. Adult foster care family homes, family child day care homes, foster family homes, and foster family group homes, shall be permitted uses in the A, E-1, R-1, and R-2 districts.
  - C. In accordance with PA 110 of 2006, a group child day care home may be considered a special land use in these zoning districts, and shall be approved, provided the following additional conditions are satisfied:
    - 1. The facility is not located closer than 1,500 feet to any of the following:
      - a. Another licensed group day-care home
      - b. Another adult foster care small or large group home licensed under the adult foster care act
      - c. A facility offering substance abuse and rehabilitation treatment to 7 or more people
      - d. A community corrections center, halfway house, resident home, or similar facility that houses an inmate population under jurisdiction of the department of corrections.
    - 2. Has appropriate fencing for safety of children
    - 3. Maintains the property consistent with the neighborhood
    - 4. Does not exceed 16 hours of operation per 24 hour period
    - 5. Satisfies sign regulations of Section 17.12
- D. Adult Foster Care Small and Large Group Homes and Adult Congregate Facilities shall provide access and outdoor open space areas as required in Section 18.02, subsections B and E.

### **Section 18.30 Temporary Housing for Migratory Workers**

All buildings erected or moved onto farms and dwellings for farm employees shall satisfy the following standards:

- A. Such buildings shall be located at least eighty (80) feet from the centerline of any road or highway and at least two hundred (200) feet from the main building of any neighbor.
- B. Erecting and/or moving of said buildings or employees shall require the approval of the Zoning Administrator.
- C. A natural barrier of shrubs, evergreens, trees, or other similar materials shall be erected between the migrant housing and the highway and shall comply with the provisions contained in Chapter 20, Landscaping and Screening.
- D. All buildings maintained for farm employees shall be occupied by them and their families only while engaged in continuous work on farms.
- E. Farmers operating temporary housing shall have obtained all necessary State and County approvals and licenses and shall have satisfied the requirements of Part 124 of Public Act 368 of 1978, as amended.
- F. Adequate facilities for water supply and waste disposal shall be provided and approved by the appropriate County agency.
- G. Lots or parcels containing housing for agricultural workers shall be a minimum of five (5) acres in size.

### **Section 18.31 Top Soil, Sand, Gravel or Other Material Extraction and Processing Facility**

The purpose of these requirements is to provide for the use of lands that have significant gravel, sand or other deposits for mining or extraction purposes in a manner that complies with the regulations of this Ordinance, would not constitute a hazard to the public health, safety and welfare, and would result in reclamation of the land in a suitable manner for other purposes. These standards shall be considered and adhered to in addition to the procedures and requirements of the Township Mineral Removal Ordinance. Such uses shall be subject to the following:

- A. **Area.** The minimum site size shall be ten (10) acres.

**B. Application.**

1. Sand, gravel, topsoil, clay, marl, minerals or other similar materials herein referred to as earth solids, and waste or fill material in excess of 100 cubic yards in one year, shall not be removed, deposited or relocated in or from lands in the Township of Royalton, Berrien County, Michigan, by any person, without obtaining site plan review and special land use permit approval as detailed below.
2. This ordinance shall not apply to removal or relocation of earth solids in connection with:
  - a. Removal or relocation directly necessary to a building when a building permit has been issued and is in effect for such project, with a limit of 4,000 cubic yards.
  - b. Construction, operation and maintenance by public utilities.
  - c. Construction, operation and maintenance by governmental agencies and municipal corporations.
  - d. Uses accessory to another lawful use, including parking, landscaping, gardening and similar accessory uses to a maximum of 800 cubic yards of earth solids.
  - e. Projects incidental to and accessory to farming operations.
  - f. Residential construction and improvements carried out pursuant to a plat duly approved and recorded pursuant to the Plat Act, being Act 172 of 1929 for the State of Michigan, or the Subdivision Control Act, being Act 288 of 1967 for the State of Michigan.
  - g. Sand shall not be mined for purposes of commercial sale in lands classified under Residential, Royalton Township Zoning Ordinance.

**C. Site Plan Information.** The following additional information shall be provided on a site plan:

1. Name and address of the person, firm or corporation who or which will be conducting the actual operation.
2. Location of the processing plant or buildings, whether on-site or off-site.
3. Type of materials or resources to be removed or to be brought to the site.

4. Proposed method of removal or filling, or incineration, general haul route, and whether blasting or other use of explosives will be required.
  5. General description of equipment to be used.
  6. The estimated time to complete total operations.
  7. The total area (expressed in acres) proposed to be excavated or mined.
  8. A reuse plan, drawn to a scale of 1" = 50' placed on a standard sheet and containing the following information:
    - a. A proposed grading plan and landscape plan.
    - b. A description of the land use activities proposed to be located on the site upon completion of mining or extraction operations.
    - c. A description and location of the street, drainage, water, and sanitary sewer facilities required to serve the uses.
- D. **Impact Assessment.** The applicant shall submit an impact assessment prepared by a licensed, qualified professional, analyzing the potential impacts of the proposed use on the surrounding land uses, the existing and adjacent environment and natural features, the utilities, the traffic and levels of service of adjacent roadways, and additional impacts that may be caused by the proposed use.
- E. **Setbacks.** The following minimum setback standards shall apply:
1. All structures and machinery shall be a minimum of 100 feet from all property lines and 200 feet from any residential districts or uses.
  2. No mining, excavation, stockpiling of material or processing shall take place less than 100 feet from all property lines and 200 feet from any residential districts or uses. The Planning Commission may approve a reduction in this setback requirement upon determining that proposed lateral support will adequately protect abutting property, and may require additional setback area upon determining that additional setback area is necessary to adequately protect adjacent property.
  3. No mining, excavation, stockpiling of material or processing shall take place less than 100 feet from any street right-of-way, except where determined by the Planning Commission to be necessary to reduce or raise the final elevation to the existing elevation of the street.

- F. **Security.** The site shall be enclosed with a six (6) foot security fence with a locking access gate. Such fences shall be placed no closer than 50 feet to the top or bottom of any slope. The owner or operator shall place appropriate "KEEP OUT" - "DANGER" signs around said premises not more than 200 feet apart.
- G. **Reuse Plan.** Reclamation and rehabilitation of mining and landfill areas in accordance with the Reuse Plan shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. Substantial completion of reclamation and rehabilitation shall be effected within two (2) years after termination of mining or excavation activity (inactivity for a 12 month consecutive period shall constitute termination of mining activity).
- H. **State and Federal Requirements.** Proof of all required outside agency approvals or permits shall be provided to the Township prior to the start of work on the site.
- I. **Access and Circulation.** Truck routing shall be restricted to those streets designed to accommodate truck traffic on a year-round basis. All roads used for the purpose of ingress and egress shall be kept dust free by hard topping with cement, bituminous substance or chemical treatment.
- J. **Performance Standards.** Such uses shall comply with Section 17.07, Performance Standards, and the following:
1. Creation of a lake or pond shall only be permitted where the applicant can demonstrate using engineering and hydrological studies that the water can be maintained in a non-polluted condition, and that the applicant meets any requirements of the State of Michigan. In order to protect water wells and the water supply of the Township, the pumping or drainage of water from such quarrying operations is absolutely prohibited.
  2. No topsoil shall be removed from the site, and all topsoil shall be redistributed properly upon completion of the extractive activities, or phase thereof.
  3. The slopes of the banks of the excavation shall in no event exceed seven (7) feet horizontal to one (1) foot vertical. Where ponded water results from the operation, this slope shall be maintained and extended into the water to a depth of 10 feet.
- K. **Issuance, Conditions of Permit, Bond.**
1. No permit shall be issued unless the Township Board, after considering the application and the recommendation of the Township Planning Commission, if any, and after giving the applicant an opportunity to be heard in person or by counsel, shall find that the proposed operations are not likely to cause any

dangerous, unsanitary, or unhealthy condition, that they will impose no undue financial burden upon the Township, and that they are not likely to create any public or private nuisance, that they are not likely to be conducted in violation of any State Laws or Township Ordinance, that there is adequate assurance that the premises will be left in such condition as will protect them from erosion, and that after completion of the operations the premises will be at least as usable for purposes permitted by the Township Zoning Ordinance as at the time of granting of the permit.

2. The Township Board shall include in any permit issued specific reasonable terms, conditions and requirement for removal and relocation of earth solids, waste or fill material, including the condition and contours in which any premises or lands shall be left at the termination of the permitted project. When it is appropriate, ground cover and similar conservation practices, in accord with the recommendations or guidelines as set up by the U.S. Soil Conservation Agency or Michigan State Extension Service, shall be required for the restoration and preservation of the premises.
3. Permits shall be effective for a period of one year only, unless some other shorter term shall be stated in such permit. Upon reapplication, the permit may be renewed.
4. As a condition of granting the permit, the Township Board shall require an applicant to post a surety bond, or other adequate assurances, in such reasonable amount and upon such reasonable terms as the Township Board may determine, taking into consideration the scale of the operation, cost involved in rehabilitation, court costs and other reasonable expenses, for the purpose of assuring the public that the terms and conditions of the permit as issued will be complied with. The form of such bond shall be approved by the Township Attorney.

### **Section 18.32 Two-Family Attached Dwelling Units**

A. **Building layout and architecture.** The following architectural standards shall be met for all structures:

1. **Orientation.** Parking areas, garages and any other accessory structures and uses shall be located within the established rear yard or located in the side yard outside of the required side yard setback, with access provided by an alley or access drive. A minimum of 75% of the main entrances to the individual dwellings shall be located on the front façade of the building, and all shall include a front porch or stoop that is at least six (6) feet in width and depth, and 70 square feet in area.
2. **Architectural Details.** Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or

other decorative finish materials. All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing.

- B. **Street design.** Alleys shall be provided where necessary for access to rear yard garages. Such alleys shall have a minimum pavement width of 20 feet and shall be located within a minimum 30-foot wide access easement. An alley shall be designed to provide only secondary frontage and access to dwellings. Street connections may be provided to adjacent neighborhoods and parcels in residential districts, with Planning Commission approval.
- C. **Pedestrian circulation.** Minimum five (5) foot wide concrete sidewalks shall be provided on both sides of all internal streets within a townhouse or stacked flat development, between the public sidewalk and all dwelling entrances, and within all open space areas. Sidewalks along collector roads and streets shall be at least five (5) feet wide.
- D. **Recreation Area.** Passive or active recreation areas (including but not limited to seating areas, playgrounds, swimming pools, walking paths and other recreational elements in accordance with the intended character of the neighborhood) shall be provided at a ratio of at least 20% of the gross total area of the development. The minimum size of each area shall be not less than 5,000 square feet, and the length to width ratio of each area, as measured along the perimeter, shall not exceed four to one (4:1), except that up to 25% may be counted towards non-motorized paths. Such areas shall be centrally and conveniently located to be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.
- E. **Utilities.** All townhouse and stacked-flat dwellings shall be connected to the public sewer, and public water systems.
- F. **Other Requirements.** Adequate landscaping and screening shall be provided along all property lines that abut a residential district or use, and along all street frontages and shall comply with the provisions in Chapter 20, Landscaping and Screening. Parking or storage of recreational vehicles, boats, utility trailers or similar items shall be prohibited, except in areas designated on an approved final site plan and screened or located appropriately.
- G. **Exterior.** The exterior of a two-family dwelling (or duplex) shall be designed, constructed and maintained in a manner that provides the appearance of a single-family dwelling. [Amended 3/8/2010]

### **Section 18.33 Veterinary Offices and Clinics**

- A. **Setbacks.** Structures shall be set back at least 20 feet from all side and rear property lines, and at least 50 feet from abutting residential districts or uses, churches, schools, or restaurants on the same side of the street.
- B. **Landscaping and Screening.** Outdoor enclosures or runs shall be enclosed by screening in accordance with Chapter 20, Landscaping and Screening, to buffer street rights-of-way and adjacent residential districts or uses.
- C. **Operating Requirements.** A licensed or registered veterinarian shall operate the clinic. All boarding shall be limited to animals brought in for treatment or surgery, unless the site has also been approved for a kennel in accordance with Section 18.15, Kennels. All activities shall be conducted within an enclosed building.
- D. **Performance Standards.** All veterinary clinics shall comply with the following:
  - 1. Such buildings shall be constructed to ensure that noise and odors shall not be perceptible beyond the site's property lines.
  - 2. Outdoor exercising is allowed when the pet is accompanied by an employee, provided no animals shall be permitted outside of the buildings between 9:00 p.m. and 7:00 a.m.

### **Section 18.34 Wireless Communication Facilities**

- A. **Purpose.** The general purpose of this chapter is to regulate the placement, construction and modification of transmission towers and telecommunications facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Royalton Township. Specifically, the purposes of this chapter are:
  - 1. To regulate the location of transmission towers and telecommunications facilities in the township;
  - 2. To protect residential areas and land uses from potential adverse impact of transmission towers and telecommunications facilities;
  - 3. To minimize adverse visual impact of transmission towers and telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques;



4. To promote and encourage shared use/collocation of transmission towers and antenna support structures as the primary option rather than construction of additional single-use transmission towers;
  5. To avoid potential damage to property caused by transmission towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used for or determined to be structurally unsound; and
  6. To ensure that transmission towers and telecommunications facilities are compatible with surrounding land uses.
- B. **Exceptions.** Nothing in this chapter shall apply to amateur radio antennas, short wave facilities, or satellite dishes with a diameter of less than 1.5 meters.
- C. **Definitions.** The following terms, when used in this chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
1. **Alternative Technology** - any basis technology that could feasibly be used to provide the same level of service as the wireless system being proposed.
  2. **Alternative Tower Structure** - trees, clock towers, steeples, light poles, water towers, billboards, buildings, and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.
  3. **Ancillary Facilities** - the buildings, cabinets, vaults, closures and equipment housing and ventilation and other mechanical equipment.
  4. **Antenna** - any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.
  5. **Antenna Support Structure** - any building or other structure other than a transmission tower, which can be used for location of telecommunications facilities.
  6. **Applicant** - any person that applies for a transmission tower development permit.
  7. **Application** - the process by which the owner of a parcel of land within the Township submits a request to develop, construct, build, modify, or erect a transmission tower upon such parcel of land. Application includes all written

documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the Township concerning such a request.

8. **Attachment** - an antenna or other piece of related equipment affixed to a transmission tower, building, light or utility pole, or water tower.
9. **Backhaul Network** - the lines that connect a provider's tower/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switched telephone network.
10. **Collocation** - placement of an antenna on an existing transmission tower, building, light or utility pole or water tower where the antenna and all supports are located on the existing structure.
11. **Engineer** - any engineer licensed by the State of Michigan.
12. **Height** - when referring to a tower or structure, the distance measured from the finished grade to the highest point on the tower or other structure, including the base pad and any antenna or other attachment.
13. **Owner** - any person with fee title, and land contract purchaser's interest, a long-term (exceeding 10 years) leasehold to any parcel of land within the Township who desires to develop, construct, build, modify, or erect a transmission tower upon such parcel of land.
14. **Person** - any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
15. **Provider** - a person in the business of designing and using wireless communication facilities including cellular radiotelephones, personal communications services, enhanced/specialized mobile radios, and commercial paging services.
16. **Stealth** - any transmission tower or wireless communications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and transmission towers designed to look like other than like a transmission tower such as light poles, power poles and trees. The term "stealth" does not necessarily exclude the use of un-camouflaged lattice, guyed or monopole transmission tower designs.
17. **Wireless Communication Facility (or Facility)** - all facilities related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including towers, alternative tower structures, antenna and ancillary facilities. Not included are facilities for citizen band radio, short wave radio, ham and

amateur radio; television reception antenna; satellite dishes; and government facilities that are subject to state and federal law. Wireless communication facilities shall be specifically excluded from the definitions of “essential services” and “public utility”.

18. **Wireless Communication Tower (or Tower)** - any structure used to support attached wireless communication facilities, or other antennas, or facilities including the following:

- a. **Guyed Tower:** A tower that is supported by the use of cables (guy wires) which are permanently anchored;
- b. **Lattice Tower:** A tower characterized by an open framework of lateral cross members which stabilizes the tower; and
- c. **Monopole:** A single upright pole, engineered to be self-supporting and does not require lateral cross supports or guys.

D. **Location Requirements.** No wireless communication facility, as defined in this chapter, may be constructed, modified to increase its height, installed or otherwise located within the Township except as provided in this chapter.

E. **Application Requirements**

1. A permit for a wireless communication facility shall be processed in accordance with the special use permit procedures of Chapter 23 of this ordinance and in accordance with established administrative policies. The criteria contained in Chapter 23 of this ordinance and subsection F below shall govern approval or denial of the special use permit application. In the event of a conflict in criteria, the criteria contained in subsection F of this section shall govern. No zoning permit shall be issued prior to completion of this special use permit process, including any appeals.

2. **Information Required for Special Use Application** – In addition to any information required for applications for special use permits pursuant to Chapter 23 of this Ordinance, applications for a special use permit for a Wireless Communication Facility shall submit the following information:

- a. A scaled site plan clearly indicating the location, type, and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other governmental jurisdictions), the current land use plan’s classification of the site, and all properties within the applicable separation distances set forth in subsection F, roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other

- structures, or equipment enclosures, topography, parking, and other information deemed by the Zoning Administrator and/or Planning Commission to be necessary to assess compliance with the stands for approval in this ordinance.
- b. Legal description and ownership of the parent tract and leased parcel (if applicable).
  - c. The setback distance between the proposed tower and the nearest dwelling unit, and the nearest property in a residential zoning district.
  - d. Documentation from an engineer demonstrating compliance with non-ionizing electromagnetic radiation (NEIR) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antennas are located or collocated or in structures within 500 feet of the entrance to the tower site.
  - e. Documentation from an engineer that placement of the antennas is designed to allow future collation of additional antennas if technologically possible.
  - f. Documentation from an engineer that the ancillary facilities will not produce excess sound levels, or designs showing how the sound is to be effectively reduced.
  - g. An inventory of existing towers, antennas, or sites approved for towers or antennas that are owned or used by the applicant or any affiliated entity within Berrien County, or within one (1) mile of Royalton Township. This inventory shall include the location, height, and design of each existing tower. The location of all such existing towers, and sites approved for towers or antennas, shall also be depicted on a single scaled map. The applicant shall also designate on this map the location of all existing towers not owned or used by the applicant or any affiliated entity located with Royalton Township or within one (1) mile of any boundary of the Township, and indicate the owner(s) or operator(s) of such towers, if known.
  - h. A map of the area served by the provider's existing wireless communications facilities shall be provided, along with a map of the same area showing the service area coverage provided by the addition of any proposed facilities.
  - i. Plans showing the connection to utilities, right-of-way cuts required, ownership of utilities, and easements required.

- j. A signed statement from the applicant stating that the applicant will submit documents demonstrating that necessary easements have been obtained, prior to requesting a building permit.
- k. Plans showing how vehicle access will be provided.
- l. A landscaping plan showing fencing and specific landscape materials.
- m. Finished color and, if applicable, the method of camouflage and illumination. Also, the color and exterior materials for the equipment enclosure and any other structures or improvements installed on site.
- n. The applicant is responsible for seeking and receiving any and all applicable permits required for the site location, including but not limited to the Federal Aviation Administration, Michigan Aeronautics Commission, Berrien County Road Commission, Michigan Department of Transportation, Berrien County Airport Board, and any other applicable governing or administrative agency, and shall provide a description of compliance with all federal, state and local laws.
- o. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- p. Identification of entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
- q. A description of the suitability of the use of existing towers, other structure or alternative technology not requiring the use of towers or structures to provide the services to be made available through the use of the proposed new tower.
- r. A description of the desirable characteristics justifying the suitability of the proposed location.
- s. “Point of view” renderings of how the proposed tower will appear from the surrounding area.
- t. Each applicant to allow collocation of antennas shall include a written statement from an engineer that the construction and placement and proposed use of the antenna(s) shall not interfere with public safety communications and the usual and customary transmission or reception or

radio, television or other communications service enjoyed by adjacent residential and non-residential properties.

- u. All information of an engineering nature, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

**F. Standards for Approval of Special Use Permit for Wireless Communication**

**Facilities.** In addition to the generally applicable standards for approval of special use permit applications pursuant to Chapter 23 of this ordinance, installation, construction, or modification of all transmission towers and antennas shall comply with the following standards, unless a waiver is obtained pursuant to the provisions of subsection H of this chapter.

1. **Availability of suitable existing towers, other structures or Alternative technology.** The applicant shall demonstrate that no existing tower, structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed antenna. The applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of the following:
  - a. No existing towers or structures are located within the geographic area, which meet the applicant's engineering requirements.
  - b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are demonstrated by the applicant to be unreasonably higher than the norm for similar situations. The Planning Commission may consider such costs exceeding 20% above the norm to be unreasonably high.

- f. The applicant satisfactorily demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
2. **Sharing Space.** No new transmission tower shall be built, constructed, or erected in Royalton Township unless the transmission tower is capable of supporting another firm’s operating telecommunications facilities comparable in weight, size, and surface to the telecommunications facilities installed on the applicant’s transmission tower within six (6) months of the completion of transmission tower construction pursuant to subsection F.5.
  3. **Setbacks:** At a minimum, the tower base must be set back a distance equal to 110% of the height of the tower from any adjoining lot line. Tower support apparatus, including guy lines and accessory buildings, must satisfy the minimum building/structure setback requirements for the applicable zoning district.
  4. **Separation from off-site uses/designated areas.** The tower shall comply with the minimum separation requirements from off-site uses and designated areas as specified in Table 1 below, measured from the base of the tower to the lot line of the offsite uses and/or designated areas (using a straight-line measurement):

**Table 1  
Minimum Separation Distances from Adjacent Uses**

Off-site Use / Designated Area	Separation Distance
Single family, two family or multiple family residential uses.	200 feet or 300% of height of tower, whichever is greater.
All other areas of residential use, both on and off the property being used or leased.	200 feet or 300% of height of tower, whichever is greater.
Non-residentially zoned lands and non-residential uses.	Setback requirements of subsection F.3 apply.

5. **Separation Between Transmission Towers.** The tower shall comply with the minimum separation requirements from other towers as specified in Table 2, measured between the bases of the proposed tower and preexisting towers (using a straight line measurement). No transmission tower may be constructed within one (1) mile of any existing transmission tower. For purposes of this paragraph, an existing tower shall include any transmission tower for which the Township has issued a building permit, or for which an application has been filed and not

denied. Transmission towers constructed or approved prior to the adoption of this chapter may be modified to accommodate additional providers consistent with provisions for collocation in this section.

**Table 2**  
**Minimum Separation Distances from Existing Towers**

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 ft. in Height or Greater</b>	<b>Monopole Less than 75 ft. in Height</b>
<b>Lattice</b>	2.5 miles	2.5 miles	2 miles	1 mile
<b>Guyed</b>	2.5 miles	2.5 miles	2 miles	1 mile
<b>Monopole 75 ft. in Height or Greater</b>	2 miles	2 miles	2 miles	1 mile
<b>Monopole Less than 75 ft. in Height</b>	1 mile	1 mile	1 mile	1 mile

6. **Maximum Tower Height.** The maximum allowable tower height is 220 feet unless a waiver is granted pursuant to the provisions of subsection H. At the discretion of the Planning Commission smaller towers may be expandable to 220 feet.
7. **Collocation.** New transmission towers shall be designated and constructed (structurally, electrically, and in all other respects) to accommodate the applicant's antennas and compatible antennas for at least three (3) other users, unless the Planning Commission determines pursuant to specific information submitted by the applicant that this multiple user requirement is not technologically feasible for the site, or would result in a tower that fails to otherwise comply with all applicable special use approval standards. Where a multiple use tower is proposed, or is otherwise required by the Planning Commission pursuant to this ordinance, the applicant shall furnish a written agreement providing that the applicant shall not prevent or deny space on the tower for compatible antennas or other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.
8. **Security.** The base of the tower and structural support apparatus shall be enclosed by fencing or other suitable enclosure, to be determined by the Planning Commission, not less than six (6) ft. in height, sufficient to restrict access to authorized personnel only. Said tower and structural support apparatus shall also be equipped with an appropriate anti-climbing device.
9. **Landscaping, Buffering and Site Maintenance.** In all zoning districts, existing vegetation shall be preserved to the maximum extent possible. Landscaping shall



be placed completely around the transmission tower and ancillary facilities located at ground level except as required to access the facility. Such landscaping shall consist of evergreen vegetation with a minimum planted height of six (6) ft. placed densely so as to form a screen. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well-maintained. Landscaping shall be installed on the outside of any fencing.

10. **Lighting.** The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration (FAA) or other state authority for the tower. If lighting is required it shall be oriented inward so as to not project onto surround property or roadways. In cases where there are residential uses with a distance from the tower which is 300% of the height of the transmission tower and when required by federal law, dual mode lighting shall be requested from the FAA.
11. **Display.** No signs, striping, graphics or other attention-getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than three (3) square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).
12. **Weather Resistance.** The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area. The Transmission tower and attached antennas shall be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the Township.
13. **Non-Interference.** The tower and all antennas located on the tower shall not interfere with any radio or television transmission or reception in the area.
14. **Aesthetics.** Towers and antennas shall meet the following requirements:
  - a. Towers shall either maintain a galvanized steel finish, or subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - b. The design of the buildings, equipment, and enclosures, and related structures at a tower site shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be a neutral color that is identical to, or closely compatible with, the color of the supporting

structure so as to make the antenna and related equipment as visually unobtrusive as possible.

- d. Notwithstanding the foregoing, the Planning Commission may also require tower and guy wire devices designed to minimize bird-tower collisions.
15. **Ancillary Structures/Buildings.** All buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.
16. **Inspection and Maintenance.** An approved tower/antenna and ancillary structures shall be inspected at regular intervals, not less than once a year, and shall be serviced as frequently as may be necessary to maintain the tower/antenna and ancillary structures in a safe and weather-withstanding condition. Reports of all inspections and maintenance shall be made to the Township upon written request.
17. **Minimum Lot and Yard Requirements.** For purposes of determining whether a proposed tower site complies with zoning regulations for the applicable district, including minimum lot area, maximum lot coverage and yard requirements, the dimensions of the entire lot shall control where a proposed tower site is created pursuant to a lease or license agreement encompassing less than the entire lot.
18. **Criteria for Approval.** Construction, installation, replacement, co-location, alteration, or enlargement of Wireless Communication Facilities shall only be approved upon determination that all of the following conditions have been satisfied:
  - a. **Operating requirements.** The petitioner shall demonstrate that operating requirements necessitate locating within the Township and the general area, and shall provide evidence that existing towers, structures or alternative technologies cannot accommodate these requirements.
  - b. **Engineering requirements.** The petitioner shall demonstrate that existing towers or structures are not of sufficient height or structural strength to meet engineering requirements, or are not located in a geographic area that meets these requirements.
  - c. **Impact on adjacent uses.** Nearby residential districts and uses, community facilities, historic sites and landmarks, natural beauty areas and street rights-of-way will not be adversely impacted by the location of the wireless communications facility.
  - d. **Site characteristics.** Topography, vegetation, surrounding land uses, zoning, adjacent existing structures and other inherent site characteristics

are compatible with the installation of wireless communications facilities on the site.

- e. **Site design.** The design, lighting, color, construction materials, landscaping, fencing, screening and other design elements are in compliance with applicable provisions of this Article.

**G. Installation of Antenna on Existing Tower.** The following provisions govern the installation of antenna apparatus on an existing communication tower, and the construction of associated ancillary buildings/structures on the side of an existing communication tower:

1. Where the existing tower has been granted special use and site plan approvals, and the proposed antenna apparatus and, where applicable, proposed associated ancillary buildings/structures, are in complete conformance with the underlying special use permit and approved site plan for the tower with respect to the total approved number of antenna apparatus on the tower, the array of the antenna apparatus, and the number, size and location of associated accessory buildings/structures, no further zoning approvals are required.
2. Where the existing tower has been granted special use and site plan approvals, but the proposed antenna apparatus and, where applicable, proposed associated ancillary buildings/structures, are not in complete conformance with the underlying special use permit and approved site plan for the tower, as provided in paragraph 1 above, the Zoning Administrator is authorized to administratively approve the proposed antenna apparatus and/or associated ancillary buildings/structures upon determining that the proposed antenna apparatus and/or ancillary buildings/structures constitute a minor modification of the underlying special use permit and approved site plan for the tower. For purposes of this sub-section, a request shall be subject to administrative approval as a minor modification only if approval of the request is not any manner contrary to the applicable standards for special use approval and site plan approval for the subject tower and any conditions imposed on such approvals. A determination by the Zoning Administrator pursuant to this sub-section shall be subject to appeal to the Zoning Board of Appeals pursuant to Chapter 25 of this ordinance and applicable provisions of law.
3. Antenna apparatus and/or associated accessory buildings or structures that are not within the scope of either sub-sections 1 or 2 above shall be subject to the special use and site plan approval process and requirements as provided by all applicable provisions of Chapters 22 and 23 of this Zoning Ordinance, respectively.

**H. Waiver**

1. Any waiver to the requirements of this chapter shall be granted only pursuant to the following provisions. The criteria for granting a waiver shall be limited to this chapter, and shall not include criteria beyond this chapter.
2. The Township may grant a waiver from the provisions of subsection F of this chapter providing the applicant demonstrates that:
  - a. It is technologically impossible to locate the proposed transmission tower on available sites more than the applicable required separation distance from a pre-existing transmission tower defined in Table 2 and still provide the approximate coverage the transmission tower is intended to provide;
  - b. The pre-existing transmission tower that is within the required separation distance of the proposed transmission tower (see Table 2) cannot be modified to accommodate another provider; and
  - c. There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the transmission tower is intended to provide.
3. The Township may grant a waiver to the setback requirements of subsection F.3 upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.
4. The Township may grant a waiver to the 220 foot height limitation if the applicant shows, through written documentation provided by an engineer, that the proposed height is the minimum height needed to meet service needs and to accommodate future collocations per subsection F.7.
5. A request for waiver shall be considered as part of the special use permit process and shall be based on the criteria in this chapter, Chapter 22, and Chapter 23.

**I. Removal of Facilities**

1. All transmission towers, antennas, transmission tower substructures and ancillary facilities shall be removed within six (6) months from the time that the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices. The responsibility to so remove shall be born by the owner and operator of the tower, antenna, substructure or facility and by the real property owner upon which the tower, antenna, substructure or facility is located. The site must be restored to the extent possible with appropriate landscaping to its pre-transmission transmission tower appearance. The

Township may grant one (1), six (6) month extension where a written request has been filed, with the initial six (6) months.

2. The Township may require the posting of an open-ended bond before zoning permit issuance to ensure removal of the transmission tower, substructure or antennas after the facility no longer is being used.

**J. Fees**

Notwithstanding any other provision of this Ordinance, the Township may require, as part of applications fees for building or special use permits for telecommunication facilities, an amount sufficient to recover all of the township's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunications expertise. This amount shall be set by Township Board resolution.

**Section 18.35 Wind Energy Conversion Systems (WECS):**

[Amended 3/8/2010]

- A. **Purpose.** The purpose of this section is to establish requirements, standards and procedures by which the installation and operation of a WECS shall be governed within the Township as a special land use within the A, Agriculture Residential zoning district.

**B. Definitions.**

1. **Interconnected WECS:** A WECS which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.
2. **Survival Wind Speed:** The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
3. **WECS Height:** The distance between the ground (at normal grade) and the highest point of the WECS (being the tip of the blade, when the blade is in the full vertical position).
4. **Wind Energy Conversion System (WECS):** Shall mean a combination of:
  - a. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical powers; and

- b. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;
  - c. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
  - d. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and
  - e. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
5. Wind Farm: Clusters of two (2) or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located. The WECS may or may not be owned by the owner of the property upon which the WECS is placed.
6. Single WECS for Commercial Purposes: A single WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. The WECS may or may not be owned by the owner of the property upon which the WECS is placed.
7. Single WECS for On-site Service Only: A single WECS placed upon a lot or parcel with the intent to service the energy needs of only the property where the structure is located. The WECS must be owned by the owner of the property upon which the WECS is placed.
8. WECS Testing Facility or Testing Facility: A structure and equipment used to determine the potential for the placement of a WECS.
9. Applicant: The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or Testing Facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate all facilities. The duties and obligations regarding a zoning approval for any approved facilities shall be with the owner of the WECS or Testing Facility, and jointly and severally with the owner and operator or lessee of the facilities if different than the owner.
- C. **Applicability.** WECS facilities may be allowed as a Special Land Use within the A, Agriculture-Residential District; provided the property upon which the system is to be located is at least five (5) acres in size and subject to the review procedures and standards/criteria for special land uses, as well as all requirements of this Section.

D. **Application Requirements.** All applications for a WECS or WECS Testing Facility Special Land Use approval shall be accompanied by the following information, including a detailed site plan drawn to scale and dimensioned, displaying all of the following information:

1. Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
2. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the lot or parcel where the proposed WECS and/or Testing Facility will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided.
3. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the WECS or Testing Facility, located on the lot or parcel involved, as well as within one-thousand (1,000) feet of the boundaries of the parcel or lot.
4. Existing and proposed setbacks for the WECS from all structures located on the property where the WECS will be located.
5. Elevation of the premises accurately depicting the proposed WECS location and its relationship to the elevation of all existing and proposed structures within three hundred (300) feet of the proposed WECS.
6. Access driveway to the WECS and the Testing Facility together with a detailed narrative regarding dimensions, composition, and maintenance of the proposed driveway.
7. Planned security measures to prevent unauthorized trespass and access.
8. The site plan submittal shall contain a written description of the maintenance program to be used to maintain the WECS and Testing Facility, including removal when determined to be obsolete or abandoned. The description shall include maintenance schedules, the types of maintenance to be performed, and removal procedures and schedules should the WECS or Testing Facility become obsolete or abandoned.
9. Additional detail(s) and information as required by the Special Land Use requirements of this Ordinance, or as requested by the Planning Commission.

10. At the Township's request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, birds, and/or other wildlife) as required by the Township for review regarding the area or surrounding areas where the WECS will be placed. Each such study or report shall be provided to the Planning Commission prior to its decision regarding the Special Land Use request.
11. A perspective or elevation drawing shall be included in the application showing the facility's relationship to any nearby structures.

**E. Compliance with the Township Codes.** A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township.

1. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECS and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Township Building Code.
2. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
3. WECS and Testing Facility electrical equipment and connections shall be designed and installed in full compliance with the Electrical Code as adopted by the Township. A copy of manufacturer installation instructions and blueprints shall be provided to the Township.

**F. Design Standards.**

1. Height: The height of any WECS, including Testing Facilities, shall not exceed a tower height of eighty (80) feet and a blade diameter (tip to tip) of one hundred (100) feet, with the overall WECS (with blade in the vertical position) not exceeding one hundred thirty (130) feet.
  - a. State and federal regulations may require a lesser height.
  - b. As a condition of approval, the Township may require a lesser height for a WECS if reasonably necessary to comply with the standards contained in subsection G hereof.
  - c. A WECS shall be constructed with a tubular tower, not a lattice tower.



2. Setbacks:
  - a. No part of a WECS or WECS Testing Facility (including guy wire anchors) shall be located within or above any required front, side or rear yard setback.
  - b. The setback for placement of a WECS for on-site service shall be at least two hundred and fifty (250) feet from each property line and from any public road right-of-way or private road easement.
  - c. The setback for all other WECS facilities, including Testing Facility, shall be one thousand five hundred (1,500) feet from each property line and from any public road right-of-way or private road easement.
3. Rotor or Blade Clearance: Blade arcs created by a WECS shall have a minimum of seventy-five (75) feet of clearance over and from any structure, adjoining property or tree. The minimum blade or rotor clearance above ground level shall be at least twenty (20) feet.
4. Rotor or Blade Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within eighty percent (80%) of design limits of the rotor.
5. Tower Access: To prevent unauthorized climbing, WECS and Testing Facilities must comply with at least one (1) of the following provisions:
  - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
  - b. A locked anti-climb device shall be installed and maintained.
  - c. A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten (10) feet high with barbed wire fence.
6. Signs: Each WECS and Testing Facility shall have one (1) sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:
  - a. Warning high voltage.
  - b. Manufacturer's name.
  - c. Emergency numbers (listing more than one (1) number).
  - d. Emergency shutdown procedures.

- e. FAA regulated sign with precise description with latitude and longitude and the owner's current telephone number.
  - f. If fenced, signs shall be placed on the fence.
  - g. No advertising shall be placed on the sign.
7. **Lighting:** A lighting plan for each WECS and Testing Facilities shall be approved by the Planning Commission. The lighting plan must describe all lighting that will be utilized, including any lighting that may be required by the FAA. The plan shall include, but is not limited to, the planned number and location of lights, light color and whether any lights will be flashing. Strobe lights are discouraged and must be shielded from the ground if allowed by the Planning Commission.
8. **Electromagnetic Interference:** Each WECS and Testing Facility shall be designed, constructed and operated so as not to cause radio and television interference. In the event that electromagnetic interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected.
9. **Noise Emissions:**
- a. Noise emissions from the operation of a WECS and Testing Facilities shall not exceed fifty-five (55) decibels on the DBA scale, as measured at the nearest property line or road.
  - b. A baseline noise emission study of the proposed site and impact upon all areas within one (1) mile of the proposed WECS location must be done by the applicant and submitted to the Building Inspector prior to any placement of a WECS. The applicant must also provide estimated noise levels to property lines at the time of a Special Land Use application.
10. **Utility Company Interconnection (Interconnected WECS):** All distribution lines from the WECS to the electrical grid connection shall be located and maintained underground.
11. **Color:** A WECS shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.
12. The applicant shall show proof of a minimum wind rating of three (3) from the proposed WECS when applying for a Special Land Use Permit.

13. Strobe effect: The WECS or Testing Facility shall be located so that the blade rotation does not cause a “flickering” or strobe effect on any existing residences in the vicinity of the facility property.
- G. **Approval Standards.** In addition to the other requirements and standards contained in this Section, the Planning Commission shall not approve any WECS or Testing Facility unless it finds that the WECS or Testing Facility will not pose a safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or area wildlife. Under no circumstances shall a WECS or Testing Facility produce vibrations or wind currents humanly perceptible beyond the property boundaries of the lot or parcel on which the WECS or Testing Facility is located.
- H. **Inspection.** The Township shall have the right upon issuing any WECS and Testing Facility Special Land Use permit to inspect the premises on which the structures are located at all reasonable times. The Township may hire a consultant to assist with any such inspection of a WECS or Testing Facility at the applicant’s cost.
- I. **Maintenance.** Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation. The applicant shall keep a maintenance log on each WECS which the Township can review on a monthly basis.
- J. **Abandonment.** Any WECS or Testing Facilities which is not used for six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property. All above and below ground materials must be removed. The ground must be restored to its original condition within sixty (60) days of abandonment.
- K. **Security.** If a Special Land Use is approved, the Township shall require a performance guarantee, in accordance with the provisions of this Ordinance, which will be furnished by the applicant to the Township in order to ensure full compliance with this subsection and any conditions of approval.
1. When determining the amount the required guarantee, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor).
  2. The performance guarantee shall be deposited or filed with the Township Clerk after a Special Land Use has been approved but before approval of a building permit for construction of the WECS or WECS Testing Facility.
  3. At a minimum, the performance guarantee shall be in an amount determined by the Township to be sufficient to have the WECS or Testing Facility fully removed (and all components properly disposed of and the land returned to its original

state) should the structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use approval. The performance guarantee shall be kept in full force and effect during the entire time while a WECS or WECS Testing Facility exists or is in place.

4. The performance guarantee shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS or WECS Testing Facility) for at least thirty (30) years from the date of the Special Land Use approval. Failure to keep the performance guarantee in full force and effect at all times while a WECS or WECS Testing Facility exists or is in place shall constitute a material and significant violation of a Special Land Use approval and this Ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the Special Land Use approval.
- L. **Road repair.** Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the applicant's expense.
- M. **Liability.** The applicant shall insure each WECS at all times for at least \$2,000,000 for liability to cover the applicant, Township and land owner. The applicant and owner shall hold the Township harmless for any claims or damages arising from the WECS or Testing Facility, including those claims or damages due to any stray voltage caused by a WECS.
- N. **Financial Study.** At the Township's request, the applicant shall fund a financial impact study for review by the Township of the area affected by the WECS. The study or report shall be provided to the Township prior to the Planning Commission's decision regarding the Special Land Use request.
- O. **Escrow Account.** The application shall be subject to the escrow account requirements of the Township.
- P. **Applicable Laws.** Each WECS and WECS Testing Facility shall also comply with all applicable federal, state of Michigan, and county requirements, in addition to Township ordinances.
- Q. **Ornamental Wind Devices.** Ornamental wind devices that are not a WECS shall be exempt from the provision of this Section, so long as they do not exceed fifty (50) feet in height. These devices may be regulated by other provisions of this Ordinance.

## **CHAPTER 19 PARKING AND LOADING SPACES**

### **Section 19.01 Purpose**

The purpose of this Article is to:

- A. Protect water quality and storm sewer capacity by limiting the number of off-street parking spaces and amount of impervious surfaces that may be permitted on a parcel of land or accessory to a use or building.
- B. Preserve the character of the Royalton Township by limiting parking in front yard areas, alleviating or preventing the congestion of streets, promoting the use and development of shared parking and restricting the use and development of scattered private parking lots.
- C. Establish flexible minimum and maximum standards for off-street parking and loading, and promote the use and development of shared parking and loading facilities, and cross-access between sites, to promote the safety and welfare of the public through efficient on and off site circulation.

### **Section 19.02 Scope**

Off-street parking and loading shall be provided in all districts in accordance with the provisions in this Chapter whenever a structure or use is established, constructed, altered, or expanded; an existing use is replaced by a new use (change of use); or the intensity of a use is increased through additional dwelling units, an increase in floor area or seating capacity, or by other means.

### **Section 19.03 General Requirements**

The following general standards shall apply to all off-street parking or loading facilities:

- A. **Number of required spaces.** Off-street parking and loading spaces shall be provided for all uses in accordance with the requirements of this Chapter.

Off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of this ordinance or were provided voluntarily after such effective date shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirements of this ordinance for a similar new building or use.

- B. **Off-Street Parking Spaces for One and Two-Family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve subject to the provisions of Section 17.08, Accessory Structures and Uses. No parking shall be permitted in the required front yard except on a driveway that leads to an approved parking space.
- C. **Off-Street Parking for Multiple-Family and Non-Residential Uses.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within 300 feet of such building or use. (The measurement shall be based on the walking distance from the nearest point of the parking facility to the nearest normal entrance to the building or use.) Off-street parking for permitted non-residential uses may be located in a required front, rear or side yard except the 10 feet adjacent to the rear or side yard lot line adjacent to a residential district or unless otherwise stated within this Ordinance. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- D. **Similar uses.** Where a use is not specifically mentioned in this Chapter, the Zoning Administrator shall apply the standards for a similar listed use. The Zoning Administrator shall refer to engineering or planning manuals, publications and reports, or to the parking requirements used by other municipalities in order to determine the minimum parking requirements.
- E. **Shared parking and loading facilities.** Where a mix of land uses in the same building or on the same lot or parcel creates staggered peak periods of parking and/or loading, shared parking and loading agreements that have the effect of reducing the total amount of needed parking and/or loading spaces, may be allowed at the discretion of the Planning Commission. Shared parking and loading agreements shall be tied to a specific land use and not the land itself. Non-residential land uses may share parking and loading areas. In no case shall shared parking include the parking required for residential uses.
- F. **Joint or Collective parking.** Joint or collective parking areas for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately except that the Planning Commission may approve a lesser parking requirement for such uses if evidence of a signed agreement between the owners of both properties agreeing to such joint use is provided to the Planning Commission. Joint or collective parking agreements shall be tied to a specific land use and not the land itself. The lots shall be interconnected for vehicular passage. Peak parking periods for the uses or expected parking needs shall justify the reduction of the parking requirement.
- G. **Irrevocable use.** All required off-street parking and loading spaces shall be reserved irrevocably and shall not be changed to any other use unless spaces meeting the standards of this Article are provided elsewhere, or the parking requirements of the use change.

- H. **Storage, repairs, and displays prohibited.** Except when land is used as permitted storage space in direct connection with a business, a 24 hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, mechanically or legally inoperable, or junked vehicles on any parking area in any district. Parking lots and loading areas shall not be used for parking of mechanically or legally inoperable vehicles; outside storage of any equipment, products, or materials; or dumping of refuse. Repairs, performing service, or display of vehicles for sale is prohibited except in direct connection with an approved business in a permitted zoning district allowing for that use.
- I. **Restriction of parking on private property.** No person, firm or corporation shall park, leave or store any motor vehicle on any private property without the authorization of the owner, holder, occupant, lessee, agent or trustee of such property.
- J. **Restriction of parking in parkways.** No person, firm or corporation shall park, deposit, leave or store any motor vehicle, vehicle or tangible personal property of any type at any time between the sidewalk line and curb line or within public right-of-way unless in a designated parking zone.

**Section 19.04 Minimum Required Parking Spaces By Use**

The number of required off-street parking spaces shall be determined by the Planning Commission in accordance with the following table. Where calculations determining the number of required parking spaces results in a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

**A. Residential Uses**

1. One and Two-Family Dwellings	Two (2) per dwelling unit
2. Multiple Family Dwelling Units	One and one half (1 ½) spaces per dwelling unit for efficiency and one bedroom units. Two (2) spaces per dwelling unit for units containing two (2) or more bedrooms.
3. Sanitariums, convalescent, or nursing home	One (1) parking space per four (4) beds or two (2) dwelling units, plus one (1) space for each two (2) employees (other than doctors), plus one (1) space for each doctor assigned as staff.
4. Bed & Breakfast Inn	One (1) space per room for guest use plus (2) spaces for the dwelling unit.

**B. Community Uses**

1. Churches	One (1) for each three (3) seats in the main worship unit based on maximum capacity of the assembly space with adequate room provided on site for unloading of buses.
2. Hospitals and institutions	One (1) parking space for each two (2) hospital beds, plus one (1) parking space for each two (2) employees other than staff doctors, plus one (1) space for each doctor assigned to staff.
3. Libraries, museums, and Post Offices	One (1) for each 1,000 square feet of floor area.
4. Private clubs and lodges	One (1) for each 200 square feet of floor area.
5. Nursery schools and day care centers	One (1) per 350 square feet of usable floor space.
6. Senior high schools and Institutions of higher learning	One (1) space for each employee, plus one (1) for each 10 students, plus any additional requirements for the auditorium and stadium if required.
7. Stadiums, arenas, auditoriums, similar places of assembly	Parking spaces equal to 50% of capacity in persons.
8. Theaters, (indoor)	One (1) for each three (3) seats.

**C. Commercial/Industrial Uses**

1. Banks, business offices, and public buildings not specifically mentioned elsewhere	One (1) for each two hundred (200) square feet of usable floor area. Uses with drive-in facilities shall provide a minimum of three (3) stacking spaces per window and satisfy the requirements of Section 19.05.G.
2. Bowling alleys	Five (5) for each alley, with an alley consisting of two bowling lanes and one (1) scoring console. If there is a restaurant, bar, or pro shop included with the alley, the minimum required for each of those uses shall be applied.
3. Business Parks and/or similar uses.	One (1) for each 250 square feet of usable floor area.



4. Restaurants, grills, dining rooms, dairy bars, soda fountains	One space per 200 square feet of usable floor area, plus one (1) per employee during largest employment shift.
5. "Drive-in" establishments	One (1) per 150 square feet of usable floor area with a minimum of 20 parking spaces plus stacking requirements as contained in section 19.05.G
6. Hotels and Motels	One (1) for each two (2) guest rooms Plus one (1) per each employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.
7. Kennel, Veterinary Clinic	One (1) space per 500 square feet, plus one (1) space per employee on largest employment shift.
8. Manufacturing, processing, and/or fabricating, manufacturing buildings, and/or business offices, and/or research laboratories, and/or other facilities related, but not necessarily connected to a manufacturing or industrial building	One (1) space per each employee based upon the greatest number of employees on any one shift, plus one (1) space for each vehicle used in the enterprise.
9. Medical doctors office or dental clinic	One (1) space for each employee and doctor or dentist plus one (1) space for each 200 square feet of floor area.
10. Mortuaries or funeral homes	One (1) for each fifty (50) square feet of floor area used for public viewings and services plus one (1) space per employee on largest shift
11. Motor vehicle sales and service establishments	One (1) for each 300 square feet of usable floor space of sales area and one (1) for each one (1) auto service stall, plus one (1) space per employee on largest employment shift
12. Professional offices and buildings	One (1) for each two hundred (200) square feet of floor area
13. Car wash	One (1) per employee based upon maximum employee shift, plus stacking per Section 19.05.G

14. Retail stores, supermarkets, department stores, personal service shops—general business	One for each 200 square feet of usable floor area.
15. Taverns and bars	One for each 200 square feet of usable floor area.

**D. Rural/Agricultural Uses**

1. Campgrounds	One (1) space per campsite located adjacent to each campsite, plus one (1) space per employee on largest employment shift.
2. Golf Course	Four (4) spaces per hole plus one (1) per each employee on maximum employment shift.
3. Greenhouses and nurseries, U-Pick produce farms	One (1) per 500 square feet of usable floor space plus one (1) per employee based upon maximum employment shift.
4. Outdoor recreation facilities	One per six (6) acres of gross land area.
5. Roadside Stands	One (1) per 250 square feet of usable floor area plus one (1) per employee based upon maximum employment
6. Wineries	The production portion = one (1) space per 1000 square feet of usable floor space. The tasting, retail, presentation portion = one (1) space per 200 square feet of usable floor space. For all, add one (1) space for each employee on largest employment shift.

**E. Other Uses**

1. Annual Seasonal Event	To be determined based on information on the particular event presented by the applicant to the Planning Commission.
2. Mixed uses in the same building	See Section 19.03.E

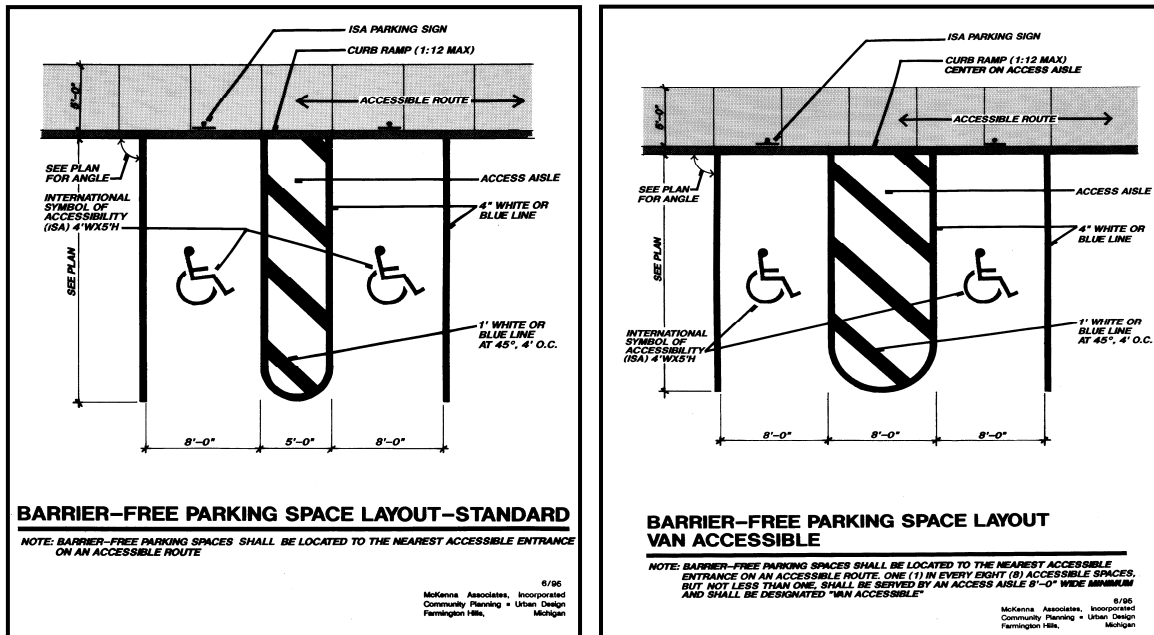
<p>3. Uses not specifically mentioned</p>	<p>Where a use is not specifically mentioned in this Chapter, the Zoning Administrator shall apply the standards for a similar listed use. The Zoning Administrator shall refer to engineering or planning manuals, publications and reports, or to the parking requirements used by other municipalities in order to determine the minimum parking requirements</p>
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**Section 19.05 Design Requirements**

**A. Barrier-Free Parking Requirements.**

1. Within each parking lot, signed and striped barrier-free spaces shall be provided at conveniently accessible locations in accordance with the following standards, or with any revised standards of the Michigan Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety.

<b>TOTAL PARKING SPACES</b>	<b>BARRIER-FREE PARKING SPACES REQUIRED</b>
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	6
151 – 200	7
201 – 300	8
301 – 400	9
401 – 500	9
501 - 1000	2% of total
1001 and over	20 + 1 for each 100 over 1000

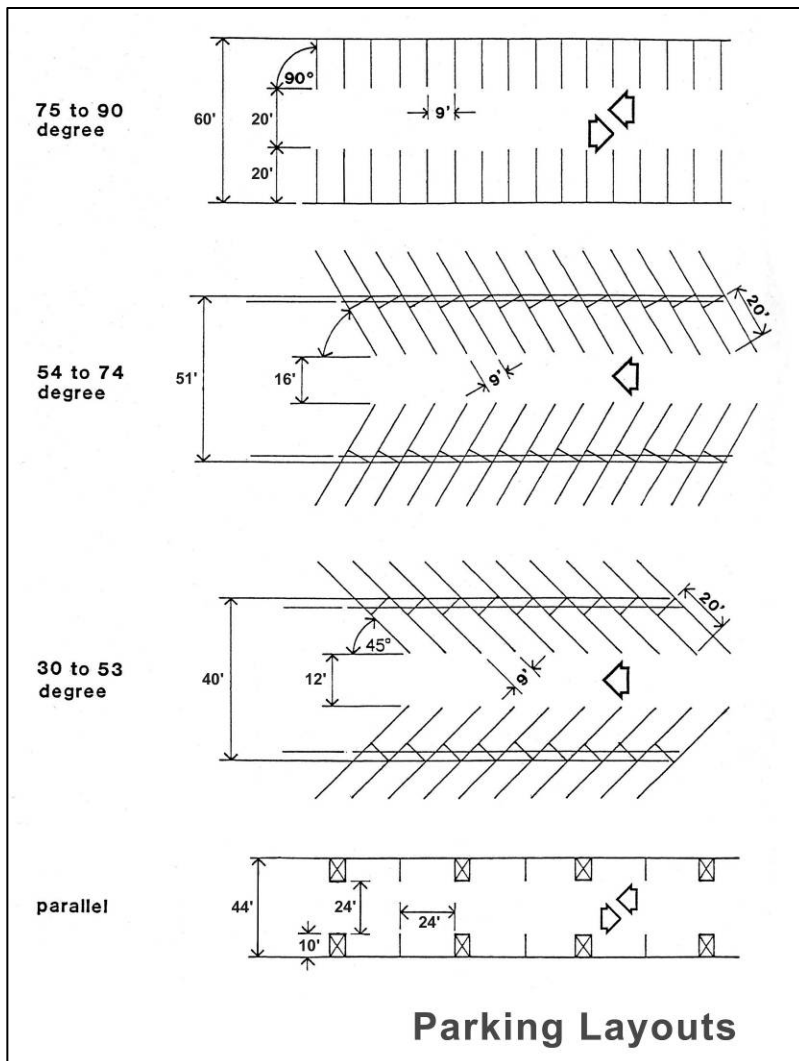


2. Accessible spaces shall be a minimum width of eight (8) feet.
  3. Adjacent to each accessible space shall be at least one access aisle.
  4. For the required Van Accessible spaces, the minimum width of the access aisle is eight (8) feet. For all other accessible spaces, the minimum width of the access aisle is five (5) feet.
  5. Barrier-free parking spaces shall be identified by signs located approximately six (6) feet above grade.
  6. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in 12 feet and a width of not less than four (4) feet shall be provided for wheelchair access.
  7. One in every eight barrier-free spaces, but not less than one, shall be designated “van accessible” and served by an access aisle eight feet wide.
- B. **Landscaping.** Landscaping, screening and buffering shall be provided for all parking and loading facilities in accordance with the provisions of Chapter 20, Landscaping and Screening.
- C. **Exterior lighting.** Where provided, exterior lighting shall comply with the standards of Section 17.19, Exterior Lighting

- D. **Ingress/Egress.** Adequate means of ingress and egress shall be provided for all parking and loading facilities, and such facilities shall be designed to prevent vehicles from backing into the street, backing into an access drive, or requiring the use of the street for maneuvering between parking rows. Entrances and exits shall be located so as to minimize traffic congestion. Shared curb cuts are to be utilized whenever possible on primary roads.
- E. **Curbing.** Parking lots shall be provided with concrete curbs and gutters for the protection of adjoining properties, streets, sidewalks and landscaped areas. The Planning Commission may approve parking facilities without concrete curbs, however bumper stops must be provided in such facilities to prevent vehicles from bumping any walls or fences or encroaching upon any landscaping or sidewalks. Where necessary for the protection of the public and the adjoining properties, streets, or sidewalks, curbs shall be required.
- F. **Sidewalks.** In all cases where off-street parking spaces directly abut a public or private sidewalk, the sidewalk shall be widened to at least seven (7) feet in width to accommodate encroachment of the vehicle's bumper.
- G. **Stacking spaces for drive-through facilities.**
1. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.
  2. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self-service shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet. A drying lane 50 feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
  3. An off-street stacking space is defined as an area 10 feet wide by 20 feet long.
- H. **Grading, drainage and surfacing.** The parking lot and its driveway shall be designed to meet minimum engineering standards. At a minimum they shall provide adequate drainage, surfaced with concrete or asphalt pavement, and maintained in good condition, free of dust, trash, and debris.

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

PARKING PATTERN (degrees)	MANEUVERING LANE WIDTH (feet)	PARKING SPACE WIDTH (feet)	PARKING SPACE LENGTH (feet)	TOTAL WIDTH OF ONE ROW OF SPACES PLUS MANEUVERING LANE (feet)	TOTAL WIDTH OF TWO ROWS OF SPACES PLUS MANEUVERING LANE (feet)
0° (parallel)	24' (two-way)	10'	24'	34'	44'
30° to 53°	12' (one-way)	9'	20'	26'	40'
54° to 74°	16' (one-way)	9'	20'	34'	51'
75° to 90°	20' (two-way)	9'	20'	40'	60'



**Section 19.06 Off-Street Loading Requirements**

Where determined to be necessary by the Planning Commission, adequate space shall be provided for loading and unloading activities on the same premises with a use involving the receipt or distribution of vehicles, materials, or merchandise to avoid undue interference with the public use of streets and alleys. Each loading or unloading space shall be 10 feet wide by 50 feet long exclusive of aisles and maneuvering space, with a 14 foot height clearance, unless the Planning Commission determines that an alternative size is more appropriate for the site. Such spaces shall be provided in accordance with the following schedule:

USABLE FLOOR AREA (square-feet)	LOADING AND UNLOADING SPACES REQUIRED BY ZONING DISTRICT	
	COMMERCIAL	INDUSTRIAL
<i>0 to 2,000</i>	None	None
<i>2,001 to 5,000</i>	1	1
<i>5,001 to 20,000</i>	1	1 plus 1/5,000 in excess of 5,000
<i>20,001 to 50,000</i>	1 plus 1/20,000 in excess of 20,000	3 plus 1/15,000 in excess of 20,000
<i>50,001 to 100,000</i>	1 plus 1/20,000 in excess of 20,000	5 plus 1/10,000 in excess of 50,000
<i>100,001 to 300,000</i>	5 plus 1/100,000 in excess of 100,000	10 plus 1/100,00 in excess of 100,000
<i>300,001 to 500,000</i>	10 plus 1/100,000 in excess of 300,000	10 plus 1/100,000 in excess of 300,000
<i>Over 500,000</i>	12 plus 1/250,000 in excess of 500,000	14 plus 1/150,000 in excess of 500,000

- A. No loading space shall be located closer than 50 feet to any residential district or use, except where located within an enclosed building or adequately screened to the satisfaction of the Planning Commission. No permitted or required loading berth shall be located within 25 feet of the nearest point of intersection of any 2 streets.
- B. Loading spaces shall not be provided in the front yard or on any building facade facing or visible from a public street, except where the Planning Commission determines such a location is necessary due to the location or placement of the building, existing street pattern, or other factors.
- C. Loading spaces shall be paved with concrete or plant-mixed bituminous material in accordance with the requirements of the Township.

- D. Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.
- E. Space allocated to any off-street berth shall not, whole so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

**Section 19.07 Modification of Standards.**

- A. **Deferment of parking spaces.** Where an applicant demonstrates to the satisfaction of the Planning Commission that the minimum required number of parking spaces is excessive, the Planning Commission may approve the construction of a lesser number of parking spaces, provided that the deferred parking is shown on the site plan and set aside as open space, and provided that the applicant agrees to construct the additional parking upon request by the Township after the Zoning Administrator documents three (3) incidents of problem parking on the site.
- B. **Special circumstances.** Under the following circumstances, the Planning Commission may permit alternative means (other than the construction of private off-street parking or loading facilities) of complying with the parking or loading requirements of this Chapter:
  - 1. Existing off-street parking and/or loading spaces on the lot can effectively accommodate the parking and loading needs of a given use.
  - 2. Existing on-street spaces adjacent to the lot can effectively accommodate the parking and loading needs of a given use without negatively impacting traffic safety or adjacent uses.
  - 3. Existing public parking lots and alleys near the lot can effectively accommodate the parking and loading needs of a given use without negatively impacting traffic safety or adjacent uses.
  - 4. An agreement for shared facilities is in place between adjacent property owners to set aside existing off-street parking and/or loading spaces on an adjacent lot to accommodate the requirements of a given use.

**Section 19.08 Maintenance.**

All parking and loading areas shall be maintained in accordance with the provisions of this Chapter, an approved site plan, and the following:

- A. Any alterations to an approved parking or loading facility that is not in accordance with an approved site plan shall be a violation of this Ordinance.



- B. Parking and loading facilities for an established use shall not be encroached upon, unless the site maintains the minimum number of required parking spaces as provided in this Chapter. If not, accommodations for additional parking must be made in order to satisfy the minimum requirements for that use.
  
- C. All land between the boundaries of the parking facility and required screening, as well as the surface of the parking area, shall be kept free from tall grass, weeds, rubbish, refuse and debris, and shall be landscaped to conform with the requirements of this Ordinance.

## CHAPTER 20 LANDSCAPING AND SCREENING

### Section 20.01 Purpose

The intent of this Chapter is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of sites, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, property value stability, and overall character in the Township.

The standards of this Chapter are also intended to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, assist in directing safe and efficient traffic flows at driveways and within parking areas, and minimize negative impacts of stormwater runoff. These landscape standards are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.

The provisions of this Chapter shall apply to all sites that are subject to site plan or sketch plan review in accordance with Chapter 22, Site Plan Review and Approval Procedures. Such sites shall be required to comply with all applicable provisions of this Chapter. Every property owner and developer has the responsibility to ensure that the use of a lot in the Township does not adversely impact adjacent properties.

### Section 20.02 General Requirements and Standards

- A. **Landscape Plan.** A Landscape Plan may be required by the Planning Commission with all site plan applications reviewed by the Township. The separate landscape plan shall be submitted at a minimum scale of one (1) inch equals 50 feet. The landscape plan shall clearly describe the location, type, size, and spacing of all plant materials.
- B. **Installation and Inspection.**
1. Wherever this Ordinance requires landscaping or plant materials, the material shall be planted prior to the issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials, which may be supplemented with other plantings.
  2. If due to the seasons it is not an appropriate time to install landscaping, the Planning Commission shall require a performance guarantee in a form acceptable

to the Township, to cover the costs of landscaping prior to the issuance of a certificate of occupancy. (See Section 22.07)

3. Landscaping shall be installed in a sound manner according to generally accepted planting procedures consistent with the standards of the American Association of Nurserymen and the quality of plant materials as hereinafter described and shall be protected from vehicular encroachment and snow removal operations.
4. In the event a performance guarantee is being held, the Zoning Administrator will within fourteen (14) days of receiving written notification of installation, conduct an inspection to verify said installation and authorize release of the guarantee.

C. **Plant Material Standards.** It is the intent of this Chapter that a diverse mixture of plantings be provided throughout the Township. Therefore, all required landscaping shall comply with the following minimum plant material standards, unless otherwise specified within this Chapter. The Planning Commission may vary these standards where the established minimums, in the judgment of the Commission, will not serve the purpose and intent of this Chapter.

1. **Plant Quality.** Plant materials permitted in required landscaped areas shall be hardy to the climate of Michigan, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.
2. **Plant Size Specifications.**
  - a. **Trees.** Required trees shall be of adequate size as determined by the Planning Commission at the time of planting, unless otherwise stated in this Chapter.
    - (1). **Deciduous Trees.** Two and a half (2½) inch caliper minimum trunk measurement at four (4) feet off the ground, with a minimum eight (8) feet in height above grade when planted.
    - (2). **Evergreen Trees.** Six (6) feet in height, with a minimum spread of three (3) feet.
    - (3). **Deciduous Ornamental Trees.** One (1) inch caliper minimum at four (4) feet off the ground, with a minimum height of six (6) feet above grade when planted.
  - b. **Shrubs.** Minimum 24 inches in height above planting grade.
  - c. **Hedges.** Planted in such a manner as to form a continuous unbroken visual screen within two (2) years after planting.

d. **Groundcovers.**

- (1). Lawn areas shall be planted in species of grass normally grown as permanent lawns in southwest Michigan. Grass may be sodded, hydro-seeded and mulched, plugged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion. Sod or seed shall be clean and free of weeds and noxious pests or disease.
- (2). The creative use of groundcover alternatives is encouraged. Groundcover used in lieu of grass in whole or part shall be planted in such a manner as to present a finished appearance that is reasonably complete after one complete growing season. Prairie grass and natural wildflower and grass mix may be used where appropriate.
- (3). Synthetic materials shall not be used as a groundcover.

e. **Mulch Material.** Minimum of four (4) inches deep for planted materials shall be installed in a manner as to present a finished appearance.

f. No plant materials used to satisfy these standards shall be comprised of non-living materials, such as plastic plants.

g. All plant materials shall be well-formed, sound, vigorous, healthy and free from disease, sunscald, wind burn, abrasion, and harmful insects at the time of planting.

h. The following plant materials are not permitted for planting (in a public right-of-way or as required by the minimum landscaping standards of this Ordinance) due to their tendency and susceptibility to storm damage, their roots are known to clog drains and sewers, they are known to be susceptible to disease or insect pests, or other undesirable characteristics: Silver Maple, Box Elder, Honey Locust (thorned), Ginko (female), Mulberry, Poplar, Black Locust, Willow, American Elm, Siberian Elm, Slippery Elm (Red Elm), Chinese Elm, Horse Chestnut, Ailanthus, Catalpa, Osage Orange, Cottonwood, European Barberry, and Ash species including green, white, black and blue.

D. **Irrigation.** All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued maintenance. Adequate provisions shall be made to supply water on a regular schedule.

E. **Visibility.** Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire

hydrants, and shall not interfere with or obstruct the view of public viewsheds and sight lines from rights of way and public property to rivers, streams, and other waterbodies.

- F. **Species Tolerance.** Public and private roads, cul-de-sacs, site entrances, and boulevard medians shall be landscaped with species tolerant of roadside conditions common to the area.

**Section 20.03 Existing Plant Material**

- A. **Consideration of Existing Elements in the Landscape Design.** In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such plant material in place of the requirements set forth in this Section.
- B. **Preservation of Existing Plant Material.** Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are six (6) inches or greater in caliper, measured four (4) feet above grade.

Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of a tree guard at the drip line around each tree. No vehicle or other construction equipment shall be parked or stored within the drip line of any tree or other plant material intended to be saved.

In the event that healthy plant materials which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree or approved substitute, in accordance with the following schedule, unless otherwise approved by the Zoning Administrator based on consideration of the site and building configuration, available planting space, and similar considerations:

<b>Damaged Tree *</b>	<b>Replacement Tree</b>	<b>Replacement Ratio</b>
Less than 6 inches	2 ½ to 3 inches	1 for 1
More than 6 inches	2 ½ to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree
* Caliper measured 4 feet off the ground.		

**Section 20.04 Screening and Buffering Requirements.**

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

**A. Zoning Districts and Land Uses.**

1. For developments within all non-residential zoning districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a screening wall or fence, greenbelt, or evergreen screen in accordance with Section 20.05, (except as otherwise required) as deemed appropriate by the Planning Commission.
  - a. Regardless of the width of the buffer selected, the transition area between a commercial district and a residential district and use shall be a minimum of 20 feet.
  - b. Regardless of the width of the buffer selected, the transition area between an industrial district and a residential district or use shall be a minimum of 40 feet.
  - c. The entire transition area shall remain undeveloped and shall not be included as setback or required yard area.
2. For non-residential land uses within residential zoning districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a screening wall or fence, a greenbelt or a berm in accordance with Section 20.05, (except as otherwise required) as deemed appropriate by the Planning Commission.

**B. Location.** Required walls, fences, greenbelts, berms, or buffers strips shall begin on or at the property line, except where underground utilities interfere.

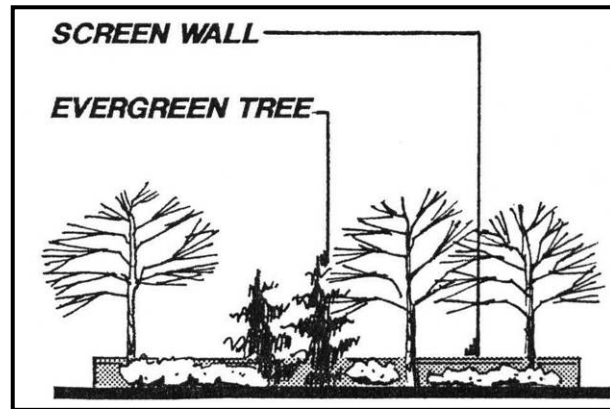
**C. Materials.** Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided for in this Ordinance and except such openings as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Planning Commission to be durable, weather resistant, rustproof, and easily maintained. Materials for walls shall be compatible with surrounding building materials. Materials for the greenbelts, berms, or buffer strips shall be in accordance with the standards identified in this Chapter unless specified elsewhere.

**D. Alternatives.** The Planning Commission may approve a landscaped berm as an alternative to a wall upon finding the landscaped berm will provide a similar screening effect. However, the yard space that the berm shall occupy shall be yard space that would not otherwise serve any functional purpose besides screening and buffering the adjacent use.

**Section 20.05 Methods of Screening and Buffering**

Screening and buffering elements shall satisfy the purpose and objectives of this Chapter, and shall be accomplished by any one of the following methods, or any combination of these methods or other alternatives that the Planning Commission determines to be best suited for the existing conditions, unless a specific method or combination of methods was identified elsewhere in the Ordinance:

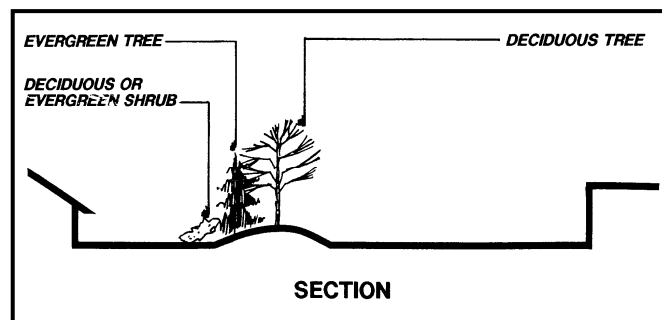
- A. **Screen wall (or fence) with planting strip.** This method shall consist of a decorative brick wall or ornamental fence up to six (6) feet in height, along with a six (6) to 10 foot wide planting strip abutting the base of the wall or fence that includes a mixture of deciduous shade trees, ornamental trees and shrubs, at a minimum concentration of one (1) tree and five (5) shrubs per each 30 lineal feet. The standards of Section 17.15 shall also apply.



- B. **Berms.** Berms shall consist of a combination of a raised earth berm and plantings, and shall meet the following standards:

1. A berm shall have side slopes no steeper than four to one (4:1) - four (4) feet horizontal to one (1) foot vertical - and the top of all berms shall have a level horizontal area of at least four (4) feet in width.
2. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace, or other means acceptable to the Planning Commission.

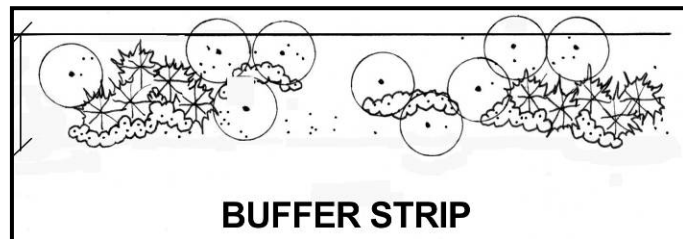
3. The berm shall be designed and graded to blend with existing topography, and shall be appropriately sodded or planted with appropriate groundcovers.



4. A mixture of deciduous shade and ornamental trees, evergreen trees and shrubs shall be planted along the entire berm area at a minimum concentration of one (1) tree and two (2) shrubs per each 10 lineal feet of berm.

5. Berms shall be used only in areas adjacent to parking and adjacent to industrial uses, unless otherwise accepted by the Planning Commission, due to the amount of space they occupy and the potential long-term impact on the landscape material.
- C. **Evergreen screen.** This method shall consist of evergreen trees, with year-round characteristics that meet the screening objectives of this Article, planted 10 to 15 feet apart in a minimum of two (2) staggered rows 10 to 15 feet apart.
- D. **Greenbelt buffer strip.** A buffer strip may be required, particularly where the adjacent uses (including uses that are adjacent across a street right-of-way) are residential in character or less intense than the use of the subject site. A required greenbelt buffer strip shall include the following:

1. Greenbelts shall have a minimum width of 10 feet, and shall contain appropriate grasses, groundcovers and mulch as necessary.



2. A mixture of deciduous shade and evergreen trees and shrubs shall be planted along the greenbelt buffer at a minimum concentration of one (1) tree and two (2) shrubs per each 20 lineal feet of street frontage or length along a property line. Additional trees may be substituted for the required shrubs at the rate of one (1) tree per four (4) shrubs.
- E. **Hedgerow.** To provide a low screen to block headlight glare, screen parked vehicles from street rights-of-way, or other circumstances where ground-level screening is necessary to obscure a portion of a site without inhibiting visibility or light, the Planning Commission may require use of a continuous hedgerow consisting of 24 inch to 36 inch high shrubs planted and maintained as a continuous visual screen, with full maturity within one full planting season, with the maximum permitted spacing to be determined by the type of shrub proposed.

## Section 20.06 Parking Lot Landscaping

Within every parking area containing 10 or more proposed spaces, at least one (1) deciduous tree with at least 100 square feet of planting area shall be used for every 10 parking spaces, or fraction thereof, in addition to any other landscaping requirements. This landscaping shall meet the following standards:

- A. Landscaping shall be dispersed throughout the parking area in order to break up large expanses of pavement and help direct smooth traffic flow within the lot.



- B. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, nor interfere with adequate motorist sight distance.
- C. Dimensions of separate landscaped areas within the interior of or adjacent to parking areas shall be shown on the development plan. Minimum width of such areas shall be 10 feet.
- D. All landscaped areas shall be designed to ensure proper protection of the plant materials. Where adjacent to streets, driveway aisles, or parking areas, landscape areas shall be protected with concrete curbing. Plant materials used shall be hardy, salt-tolerant species characterized by low maintenance requirements. Trees should result in high, broad canopies that will provide shade over large expanses of the parking lot.
- E. Approved shrubs or groundcover shall be used to cover the remainder of the island area.

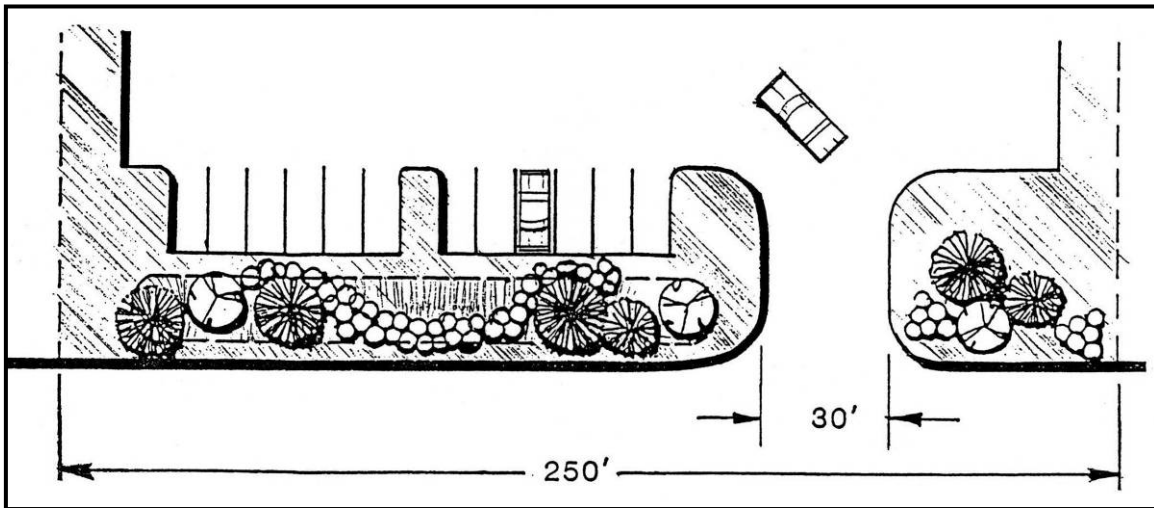
**Section 20.07 Waste Receptacle, Mechanical Equipment, and Loading Area Screening**

- A. Waste receptacles shall be screened to the satisfaction of the Planning Commission in accordance with Section 20.05. Except at locations where the receptacle will not be visible from public right of ways or any adjacent properties, enclosures shall be required. Enclosures include privacy fence, masonry wall, or landscaping that is an opaque screen year round. A steel-reinforced, lockable wooden gate shall be provided to secure the enclosure.
- B. Loading areas, storage areas and service areas, public utility and essential service uses and structures, ground-equipment shelters for wireless communications facilities, ground-mounted transformers and HVAC units, electric sub-stations, gas regulator stations, and similar facilities shall be screened from the street right-of-way and adjacent properties in accordance with Section 20.05.
- C. Roof mounted equipment shall also be screened from view through the use of ceiling walls, parapet walls, or other devices and techniques.

**Section 20.08 Street Yard Landscaping**

Street yard areas, including the area between the street pavement edge and the street right-of-way line plus any required front yard setback area, shall be landscaped in a manner that enhances the visual character of Township streets and minimizes adverse impacts of vehicular traffic on adjacent uses.

- A. **Street trees.** Street tree plantings shall consist of deciduous shade trees planted in one (1) or more rows at regular intervals, or in informal groupings, along the margins of street rights-of-way, in an amount equal to a minimum of one (1) street tree per 40 linear feet, as measured along the street right-of-way line.



- B. **Front yard setback area plantings.** Where a front yard setback is required by this Ordinance, the Planning Commission may require a berm, greenbelt, or other landscaping materials within the front yard setback in accordance with the screening or buffering objectives of this Article.
- C. **Infill development exception.** In the case of spot infill redevelopment where an individual property or use is being developed or redeveloped in the midst of existing development, the Planning Commission may decide to alter the street tree landscaping requirement based on the following determinations:
1. There is no established street tree landscaping pattern along the existing roadway, and there likely never will be;
  2. The existing landscaping provides adequate or better treatment along the streetscape than the required landscaping would provide; and
  3. Not planting the required landscaping along the street frontage would not cause any detriment to the subject property or any adjacent properties at the present time or at any time in the future.
  4. If the Planning Commission determines that the specific property qualifies, then the trees required to be planted along the street can be relocated elsewhere on the site. They are still required; they are just no longer required in the streetyard.

**Section 20.09 Maintenance**

All landscaping materials shall be maintained in accordance with the approved landscape plan, and the following:

- A. Landscape maintenance procedures and frequencies to be followed shall be specified on the landscape plan, along with the manner in which the effectiveness, health and intended functions of the various landscape areas on the site will be ensured.
- B. Landscaping shall be kept in a neat, orderly and healthy growing condition, free from debris and refuse. Tree stakes, guy wires and tree wrap are to be removed after one (1) year.
- C. All dead or diseased plant materials shall be removed and replaced with the same number, size and species of materials within 30 days of written notice from the Township, or by the end of the next planting season if it is determined by the Township that the new materials would be jeopardized by weather conditions.
- D. The approved landscape plan shall be considered a permanent record and integral part of the approved site plan. Any replacement or removal of plant materials that is not in accordance with the approved landscape plan shall be a violation of this Ordinance.

**Section 20.10 Exceptions and Alternatives.**

- A. **Alternative designs or materials.** The Planning Commission shall have the authority to modify the standards of this Chapter, provided that the alternative is determined to be in accordance with the purpose and objectives of this Chapter.
- B. **Existing sites.** Where an existing building is undergoing redevelopment, improvement, a change in use, or expansion, the Planning Commission may require landscaping, screening and buffering improvements in accordance with the purpose and objectives of this Chapter, provided that any required improvements shall be in reasonable proportion to the size and configuration of the site, and the scale of proposed building improvements, expansions or other site improvements.

## CHAPTER 21 PLANNED UNIT DEVELOPMENT

[Amended 3/8/2010]

### Section 21.01 Intent, Purpose, and Objectives

Planned Unit Development (PUD) is a comprehensive land development and planning tool which permits flexibility in the design and layout of buildings, structures, and uses, while conserving and preserving significant natural, architectural, and historical features, resources, and open spaces; promoting efficient layout of public utilities and roadways; minimizing adverse impacts on the Township infrastructure, including public utilities and traffic; and encouraging development or enhancement of housing and recreational facilities within the Township. It is intended, as well, that each PUD afford reasonable protection to uses of land within and near a PUD development.

The PUD provisions of this Chapter should encourage creative and innovative development on sites which exhibit development constraints or contain significant natural features. PUD may also provide opportunities to mix compatible land uses or housing types, allow for smaller lot sizes to preserve common open spaces and natural features, or accomplish a particular development or land use objective identified by the Township.

### Section 21.02 General Requirements

Each PUD application shall be judged on its own merits pursuant to this Ordinance. Approval of a PUD shall result in the amendment of the Township Zoning Map and the establishment of a PUD Zoning District on the subject property. To be eligible for PUD approval, the applicant must demonstrate compliance with the following general criteria:

- A. **Property Eligibility.** PUD Districts may be established on any property in the Township, except those lands designated as Manufactured Housing Park on the Future Land Use Map of the Township Development Plan.
- B. **Ownership.** At the time of Preliminary PUD Plan approvals, the proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for the development of the project. Following approval of the Preliminary PUD Plan, however, nothing in this Chapter shall prohibit a transfer of ownership or control of all or part of the involved land (*i.e.* within a PUD District), including but not limited to phased PUD projects.
- C. **Uses.** The following uses or combination of uses are permitted in a PUD District, based on the Township Development Plan designation of the subject property.

Development Plan Designation	Permitted Uses
Agriculture	Agriculture/farm uses, single family dwellings and open space developments: however, up to 20% of the total PUD site may be occupied by any other permitted or special land use in the A zoning district
Rural Residential	All uses permitted by right or special land use permit in the E-1 zoning district.
Low Density Residential	All uses permitted by right or special land use permit in the R-1 zoning district. Up to 30% of the total dwelling units may be in two-family or multiple family structures. In addition, a maximum of 5% of the total PUD site may be occupied by commercial uses, as permitted by right in the C-1 and C-2 zoning district.
Medium Density Residential	All uses permitted by right or special land use permit in the R-2 zoning district. In addition, a maximum of 5% of the total PUD site may be occupied by commercial uses, as permitted by right in the C-1 and C-2 zoning district.
High Density Residential	All uses permitted by right or special land use permit in the R-3 zoning district. In addition, a maximum of 10% of the total PUD site may be occupied by commercial uses as permitted by right in the C-1 and C-2 zoning districts.
General Commercial	All uses permitted by right or special land use permit in the C-1 zoning district.
Office, Service and Health Care	All uses permitted by right or special land use permit in the C-2 zoning district.
Interchange Commercial	All uses permitted by right or special land use permit in the C-3 zoning district.
Light Manufacturing	All uses permitted by right or special land use permit in the I-1 zoning district.

D. **Recognizable and Substantial Objectives.** An application for a PUD shall demonstrate recognizable and substantial project benefits for residents, users, visitors, neighbors, and the overall community that would not be likely under the existing zoning classification. Benefits beyond those otherwise required by this ordinance include, but are not limited to:

1. Preservation of significant natural features.
2. A complementary mix of uses.
3. Extensive open space and landscaping as well as recreational amenities.

4. Open space that links to adjacent greenway corridors.
  5. Transitions from adjacent land uses.
  6. Preservation of historic buildings or site features.
  7. Improvements to public streets or other public facility improvements that mitigate traffic and/or other development impacts.
  8. Accommodating pedestrian and transit oriented development.
  9. Coordinated development of multiple parcels.
  10. Removal or renovation of blighted buildings, sites or contamination clean up.
  11. Developments that are superior in quality than would be likely or possible if developed within a traditional zoning district.
  12. Accommodate varied densities and uses that are complementary to and help strengthen sustainable development practices.
  13. Provide a consistently high quality and coordinated level of site and architectural design and materials.
- E. **Consistency with the Development Plan:** The PUD shall be substantially consistent with the Royalton Township Development Plan.
- F. **Public Services.** The proposed type and density of use shall not exceed the existing or planned capacity of public services and facilities, including police and fire, public roads, storm water management, water, and sanitary sewer. All applicable permits and approvals shall be obtained from those agencies or units of government that have jurisdiction, including but not limited to Royalton Township, Berrien County, or the State of Michigan.
- G. **Infrastructure Improvements.** Unless otherwise provided or agreed to, all infrastructure improvements, including but not limited to roads, water, sanitary sewer, drainage, streetlights, sidewalks, and street signs, required as part of a PUD approval shall be installed by the developer at the developer's expense. The Township may, as a condition of Final PUD Plan approval, require a financial guarantee, in accordance with Section 21.02.I., to ensure installation of the infrastructure improvements.
- H. **Phasing.** Where a PUD project is proposed for development or construction in phases, the project shall be so designed that each phase, when completed, is capable of standing on its own in terms of the intent, purpose, and standards of a PUD. A phased PUD shall also conform with and/or provide for the following:

1. A written description of the anticipated phases shall be submitted as part of the Preliminary PUD Plan, indicating all work intended to be performed and the proposed timing of each phase. The Preliminary PUD Plan shall include the entire site showing the limits of each phase.
2. Final PUD Plan review and approval shall be required for each phase of the PUD. Each phase shall be consistent with the approved Preliminary PUD Plan. Major changes from the approved Preliminary PUD Plan shall require an amendment, as provided in Section 21.09.
3. Construction for the initial phase shall commence and proceed meaningfully toward completion within two (2) years of the date of Final PUD Plan approval, as required in Section 21.07.C.
4. In any PUD that combines residential and commercial uses, the Planning Commission may require a minimum of fifty (50) percent of the total residential units be constructed prior to commencing any commercial use.
5. All required open space for the entire PUD shall be identified in the Preliminary PUD Plan, In conjunction with the application for Final PUD Plan for the initial phase(s), the applicant shall submit the legal instrument dedicating all open space areas, as required in Section 21.03B.2. Construction shall not commence within the PUD until the open space conveyance has been recorded with Berrien County.

**I. Performance Guarantees**

1. The Township Board or Planning Commission may require, as a condition of PUD approval, that the applicant provide financial security to ensure that all roads, landscaping, public utilities, and other improvements associated with the PUD are made in full compliance with all Township ordinances and conditions placed upon the project. The amount of the deposit may be up to the full amount of the estimated cost of the improvement.
2. Security shall be in the form of a cashier's check payable to Royalton Township, or by establishment of a performance bond or letter of credit in favor of the Township. Any performance bond or letter of credit shall, at a minimum: be issued by a financial institution or insurer satisfactory to the Township; continue until the project is completed; and allow full or partial draws upon certification by the Township Zoning Administrator that improvements have been completed, as required.
3. The security shall be used by the Township only for the purpose of completing improvements if a developer fails to do so, including payment of engineering, legal, and other professional services associated with such a default. In no event, shall the Township be under any obligation to complete improvements on behalf of a developer.

4. Upon receiving a written request from the developer, the Zoning Administrator shall inspect, or cause to be inspected by competent professionals, the completed improvements. If the Zoning Administrator certifies that the improvements have been fully completed, the Zoning Administrator shall authorize the return of all funds on deposit for that improvement or give notice that the security may be terminated. A partial reduction in the amount of the security may be permitted in the Zoning Administrator's reasonable discretion as improvements are completed, provided that the Zoning Administrator may retain up to one hundred (100) percent of the estimated cost of the remaining improvements.
5. Upon premature termination or expiration of a bond or letter of credit posted as security, all work on a development shall be stopped until appropriate security is reestablished.

### **Section 21.03          Design Requirements**

In addition to the General Requirements (Section 21.02), a PUD shall meet the following design requirements for approval. These requirements shall apply in lieu of any conflicting regulations set forth in the existing underlying zoning district in which the development is located.

- A. **Minimum Area.** The minimum area required to establish a PUD District shall be at least twenty (20) contiguous acres of land. The Township Board, upon recommendation from the Planning Commission, may permit establishment of a smaller PUD District, if the proposed development would have a recognizable and material benefit.
- B. **Open Space.** PUDs containing any residential uses shall provide and maintain dedicated open spaces equal to at least twenty-five (25) percent of the total PUD area. All other PUDs shall contain a minimum of ten (10) percent dedicated open space.
  1. **Character and Arrangement.** The arrangement and characteristics of required open space shall reflect good planning and design principles, and shall take into account the following considerations:
    - a. Open spaces shall be conveniently located in relation to the developed area. Open space areas shall be accessible either from a roadway or pedestrian easement.
    - b. Open spaces shall have reasonable, minimum dimensions that are usable for the functions intended and will be maintainable. Unless used for trails or otherwise approved, the minimum dimensions of open space shall be 50 feet by 100 feet.
    - c. Open spaces shall be integrated into the overall design of the development.
    - d. Natural amenities such as, but not limited to ravines, rock outcrops, wooded areas, tree or shrub specimens, unique wildlife habitat, ponds,



streams and wetlands should be preserved as part of open spaces to the extent reasonably possible.

- e. Non-contiguous off-site open space shall not be used in satisfying the open space requirements of this provision.
2. Protection of Open Space. The required open space shall be set aside by the applicant through a deed restriction, open space or conservation easement, restrictive covenant, or other legal instrument that runs with the land, assuring that the open space will be preserved according to the site plan and shall not change without prior approval of the Township Board. The conveyance shall:
- a. Describe the permitted activities within the dedicated open space, and assure permanent protection from all forms of development, except as shown on an approved Preliminary PUD Plan.
  - b. Identify who will be responsible for maintenance of the dedicated open space, how maintenance will be funded, and what standards shall be applied to the maintenance.
  - c. Be submitted and approved as part of the Preliminary PUD Plan Review. The legal instrument by which the open space is dedicated shall be submitted to and approved by the Township Board upon recommendation of the Township Attorney, at the applicant's cost.
  - d. Upon approval, the applicant shall record the open space conveyance with the Berrien County Register of Deeds. A recorded copy of the instrument shall be given to the Township prior to Final PUD Plan approval.
3. Areas not Considered Open Space.
- a. Unless otherwise provided in this Ordinance, open space shall not include areas within proposed or existing street rights-of-way or easements, parking and loading areas, easements for overhead power lines, the area within a platted lot or site condominium unit, and golf courses.
  - b. Lakes, other areas permanently inundated by water, wetlands, and floodplain areas may be included in the open space percentage calculation for up to fifty (50) percent of the total open space required.
- C. **Access.** A PUD must have direct access to a State Highway, County Primary Road, or Paved County Local Road as identified in the adopted Township Development Plan. The circulation and access infrastructure approved with the Preliminary PUD Plan shall be developed as approved, even for PUDs developed in phases, and/or by multiple parties. In addition, the configuration of buildings, driveways, and other improvements within a PUD shall provide for convenient and direct emergency vehicle access. A Preliminary

PUD Plan designed to contain 50 or more dwelling units or 62,500 square feet or more of gross floor area of non-residential building or structure space shall, at the discretion of the Planning Commission, provide at a minimum two methods of ingress and egress.

- D. **Site Circulation.** In addition to the requirements for proper access, ingress and egress considerations provided above (Sections 21.03.C) each PUD must conform with and accommodate the following:
1. The vehicular and pedestrian circulation system within each PUD shall accommodate, where appropriate, the movement of vehicles, bicycles, and pedestrians throughout the proposed development, and to and from surrounding areas in a safe and convenient manner.
  2. Sidewalks and streets shall be connected into the overall Township network, and shall be extended to adjacent undeveloped properties to provide future connections. Any such improvements, if necessary, shall be at the applicant's/developer's expense.
  3. All sidewalks and pedestrian walkways, where required by the discretion of the Planning Commission, shall comply with the standards set forth in the Township Ordinances.
  4. All public and private streets within a PUD shall comply with the applicable standards of the Berrien County Road Commission and Township Ordinances.
  5. Streets and pedestrian walkways shall be designed and located to facilitate the ability of students to make the best and safest use of existing schools and school related facilities.
- E. **Utilities.** All utilities including telephone, electric, and cable, within the PUD shall be located underground.
- F. **Density.** The permitted base density for residential PUDs shall be a maximum of three (3) units per acre for Low Density Residential and a maximum of seven (7) units per acre for Medium Density Residential and a maximum of twelve (12) units per acre for High Density Residential, as designated on the Future Land Use map of the Township Development Plan. The total permitted number of dwelling units, upon recommendation of the Planning Commission and approval of the Township Board, shall be the total site area (in acres), excluding land proposed for non-residential uses, times the maximum allowed density per acre.
- G. **Permissive Residential Requirements.** In order to permit flexibility and innovation in design, modifications to the minimum requirements for residential lot area, setbacks, and width may be approved as part of a Preliminary PUD Plan; provided all modifications are determined to be consistent with the purposes of this Chapter; promote sound planning and design; are necessary for the preservation of significant natural features; or otherwise

result in a more beneficial development for the Township than would be possible under the conventional zoning district requirements. The permissive dimensional requirements shall not be reduced below the following minimums, as applicable:

Residential Unit Type	Lot Area (Sq. ft.)	Lot Width (feet)	Setbacks (feet)		
			Front	Side	Rear
Single family	8,000	80	25	8	25
Two family	6,000 per unit	100	25	8	25
Multiple family	None		25 front yard and between ends of contiguous buildings		

- H. **Non-Residential Requirements.** There shall be no minimum lot size, width, or yard requirements for commercial or industrial uses in a PUD. Specific requirements will be established as part of the Preliminary PUD Plan in consideration of the proposed uses, location, relation to surrounding properties, visibility from adjacent public roadways, preservation of natural features, extent of landscaping, and other relevant factors.
- I. **Landscaping and Screening.** A landscaping plan, which at a minimum complies with the provisions of Chapter 20, shall be submitted with both the Preliminary and Final PUD Plans. A screening area along the perimeter of the proposed PUD may be required by the Planning Commission in addition to landscaping pursuant to the requirements of Chapter 20, if deemed necessary to protect the values of adjoining property. Screening may also be required within the proposed PUD if a mix of land uses is proposed.
- J. **Sign Requirements.** All signs in PUDs shall be subject, at a minimum, to the requirements in Section 17.11 of this Ordinance. In addition, signs within a PUD must comply with the following:
1. Off-premises signs are prohibited.
  2. Roof signs are prohibited.
  3. All signs which are erected must be related to current use; in the event that the use is discontinued, then the sign must be removed within 30 days of the termination of the related use.
  4. All freestanding signs shall be ground-mounted.

Proposed signs shall be reviewed and approved as a part of the Preliminary PUD Plan. An acceptable sign plan shall include at a minimum, the locations, types, and materials of all proposed signs.

**Section 21.04 General Procedural Requirements**

Planned Unit Developments shall be approved through the establishment of a PUD District for the entire proposed PUD area depicted in the Preliminary PUD Plan. The establishment of the PUD District shall be consistent with the requirements to amend the Zoning Ordinance (see Chapter 27), with a public hearing to be held consistent with the public hearing requirements of P.A. 110 of 2006, as amended.

Applications shall be submitted in accordance with the following procedures:

- A. The applicant shall first submit a Sketch Plan of the conceptual PUD for an initial review. This “Sketch Plan Review” (Section 21.05) allows the applicant to discuss the proposed development and the PUD process with the Township. Information regarding the applicable standards of the Ordinance, technical issues, compliance, and procedures shall also be discussed at this time. The Planning Commission shall make a recommendation on the sketch plan to the Township Board, who will determine if the proposed development complies with the Intent, Purpose, and Objectives of the District, as stated in Section 21.01; the General Requirements of Section 21.02; and is consistent with the Township’s Development Plan. The recommendation of the Planning Commission and action by the Township Board are advisory only and shall not be construed as an implied approval or denial of the proposed PUD.
- B. Following Planning Commission and Township Board action on the Sketch Plan, the applicant may submit a Preliminary PUD Plan, in accordance with Section 21.06 the Planning Commission shall review the Preliminary PUD Plan, conduct a public hearing, and make a recommendation to the Township Board whether to approve, approve with conditions, or deny the Preliminary PUD Plan and PUD Zoning District. The Township Board shall then meet and make the final decision.
- C. If the PUD zoning and the Preliminary PUD Plan are approved or approved with conditions by the Township Board, a Final PUD Plan shall be submitted pursuant to Section 21.07 to the Planning Commission.

### **Section 21.05            Sketch Plan Review**

Applicants are first required to meet with the Planning Commission and then the Township Board for an initial Sketch Plan Review of the conceptual PUD plans. The purpose of this initial review is to discuss applicable standards and technical issues, comment on the proposed compliance with the standards of this Ordinance and Chapter, and the Township’s Development Plan, and discuss the procedures for further review. This review is advisory and not binding on the applicant or the Township. The Planning Commission and/or Township Board may also request input from staff and consultants. A fee may be required for Sketch Plan Review, as determined by the Township Board.

- A. **Application.** An application for Sketch Plan Review shall be submitted no less than 30 days prior to the next regularly scheduled Planning Commission meeting at which review is sought and shall be accompanied by the following information:

1. Applicants name, address, and telephone number.
2. Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as purchase agreement).
3. Address and parcel ID number.
4. Existing zoning classification(s) of the property and future land use designation(s) of the Township Development Plan.
5. Legal description and size of property.
6. A location map showing uses and ownership of abutting lands and the surrounding circulation system.
7. Size of the project in acres.
8. Information on how utilities will be provided to the PUD.
9. A sketch plan, drawn to scale, showing the following:
  - a. The entire PUD and all of the proposed uses, including the percentage of the total PUD area dedicated to each use;
  - b. Existing natural features (wetlands, ponds, rivers, streams, flood plains, steep slopes (>12%), and woodlands);
  - c. General site layout (lots, units, out lots, roads, etc.);
  - d. Conceptual grading and storm water drainage; and
  - e. Delineation of anticipated common open space areas.

**B. Narrative.** A narrative or written statement stating the following overall objectives of the proposed PUD project:

1. Describe how the proposed project qualifies for consideration as a PUD;
2. Describe how the PUD would conform to the Future Land Use designation and the Goals, Objectives, and Planning Principles of the Township Development Plan;
3. State why a PUD is preferred over conventional zoning at this site;
4. Review possible impacts on public facilities and services;

5. Identify benefits to Royalton Township;
  6. Provide details and reasons for any proposed modifications from Zoning Ordinance provisions;
  7. A detailed description of the proposed uses, building and site improvements, and open spaces;
  8. How the common open space will be owned and maintained;
  9. If the project is to be developed in phases, a description of the anticipated phasing.
- C. **Planning Commission Review.** The Planning Commission shall review the Sketch Plan and application documents as to proper form and content and with respect to compliance with all applicable requirements of the Ordinance and compatibility with the Township's Future Development Plan.
- D. **Planning Commission Action.** Based on their review, the Planning Commission shall forward a recommendation to the Township Board regarding whether the request qualifies for consideration as a PUD, along with comments about the specific proposal including density, uses, capacity of services, compatibility with surrounding uses, and impact on the natural features of the site and surrounding area.
- E. **Board of Trustees.** Within a reasonable time, the Sketch Plan proposal shall be reviewed by the Township Board, along with the recommendation of the Planning Commission, the recommendation of staff and any consultants, and the requirements and intent of this Ordinance. Based on this review, the Board of Trustees shall take an advisory vote to approve, approve with conditions, or deny the Sketch Plan. The applicant shall be notified of the action within seven (7) days of the Board's decision. The recommendation of the Planning Commission and vote by the Township Board are advisory only and shall not be construed as an implied approval or denial of the proposed PUD.

#### **Section 21.06 Preliminary PUD Plan Review Procedures**

- A. **Application.** All necessary materials of the Preliminary PUD Plan application shall be submitted no less than 30 days prior to the next regularly scheduled meeting at which review is sought, and be accompanied by the following information:
1. Fully completed applicable application(s);
  2. Proof of ownership in involved land pursuant to Section 21.02.B;
  3. Payment of appropriate fees as established by the Township Board;

4. A Phasing Plan as described in Section 21.02.F, if applicable;
5. Open Space Conveyance Instrument, as described in Section 21.03.B.2;
6. Landscaping & Screening Plan, as described in Section 21.03.J;
7. Signage Plan, as described in Section 21.03.K; and
8. A Site Plan submitted in accordance with Section 22.03 and 22.05.

**B. Narrative.** A written statement which shall address how the proposed PUD project will meet the following overall objectives of a PUD District:

1. Describe how the proposed project qualifies for consideration as a PUD,
2. State why a PUD District is preferred over conventional zoning at the proposed site,
3. State how the proposed PUD conforms to the Future Land Use designation of the property and the Goals, Objectives, and Planning Principles of the Township Development Plan;
4. Review possible impacts on the Township infrastructure, including public facilities, utilities, and services, and traffic;
5. Identify benefits to Royalton Township;
6. Provide details and reasons for any proposed modifications from the Zoning Ordinance provisions; and
7. Include a detailed description of the proposed uses, building and site improvements, phasing plans, and open spaces.

**C. Impact Statement.**

1. The Planning Commission may require the applicant to prepare and submit, at the applicant's expense, a development impact statement, describing in detail the effect and impact, whether adverse or otherwise, that the proposed development will have, or may have, upon or with respect to such things as traffic, public health and safety, public utilities and services, water and sewer systems and facilities, local school systems, property values, and natural, architectural, and historical resources.

2. The Planning Commission shall approve the professional(s) or firm(s) selected to complete the study(ies) to ensure it will provide the type and quality of information necessary to aid in the decision making process.
  3. The development impact statement shall include statements and comments from municipal agencies or officials, as applicable, concerning any aspects of the proposed development within their respective responsibilities and jurisdictions, including but not limited to law enforcement, fire department, school districts, road, transportation, health, drain or planning, or natural resource commissions or agencies.
- D. **Technical Review.** Prior to the public hearing on the Preliminary PUD Plan and proposed rezoning to the PUD District, the application and related materials shall be distributed to the Planning Commission, staff, and consultants, as applicable for review and comment.
- E. **Public Hearing.** Upon acceptance of the complete Preliminary PUD Plan submittal, along with technical review comments, a public hearing shall be scheduled and held before the Planning Commission in accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and Section 23.03.C, Public Hearing Procedures.
- F. **Planning Commission Review**
1. Following the public hearing, the Planning Commission shall review the PUD request and the Preliminary PUD Plan, based on conformance with the Intent, Purpose, and Objectives of this Chapter, Planning Principles and the Future Land Use map of the Royalton Township Development Plan.
  2. The Preliminary PUD Plan shall also be reviewed relative to the original concept of the PUD Sketch Plan and the response to any recommended changes to the Sketch Plan.
  3. Based on the above criteria, information from the public hearing, and comments from staff and consultants, the Planning Commission shall make a recommendation to the Township Board to approve, approve with conditions, or deny the Preliminary PUD Plan and the PUD rezoning. The applicant(s) shall be notified of the decision within a reasonable time of that recommendation.
- G. **Board of Trustees.** Within a reasonable time, the Preliminary PUD Plan proposal and request for PUD rezoning shall be reviewed by the Township Board with the recommendation of the Planning Commission, the results of the public hearing, the recommendations of staff and any consultants, and the requirements of this Ordinance. Based on this review, the Board of Trustees shall take action to approve, approve with conditions, or deny the Preliminary PUD Plan and the request for PUD zoning. The applicant shall be notified of the decision within seven (7) days of the Township Board action.



H. **Effect of Action of the Preliminary PUD Plan.** Preliminary PUD Plan review process is intended to provide direction for preparation of the Final PUD Plan.

1. Approval of the PUD District shall result in the amendment of the Township Zoning Map and Ordinance and the establishment of PUD zoning on the proposed development site. Notice of the amendment shall be published in accordance with the requirements set forth in this Ordinance. The requirements of the PUD District shall be the requirements of this Chapter and the approved Preliminary PUD Plan. If the Preliminary PUD Plan approval expires, the Township may initiate or the property owner may request a rezoning to another category by commencing the Zoning Map amendment procedure under Chapter 27.
2. Preliminary PUD Plan approval shall expire one (1) year after the date of approval by the Township Board, unless the Final PUD Plan for the entire site or for the first phase in a PUD to be develop in phases has been submitted to the Planning Commission for review. Upon receiving written request prior to the expiration of the initial one (1) year period, the Planning Commission may extend the Preliminary PUD Plan approval for up to one (1) additional year, upon determining that site conditions have not changed in a way that would affect the character, design, or use of the site; that the applicant has made a reasonable attempt to satisfy the timing requirements; and that the applicant is likely to submit a Final PUD Plan application within the extended time period. If the Planning Commission denies the extension of the Preliminary PUD Plan, the applicant may submit a new Preliminary PUD Plan for further consideration or request rezoning of the property to another classification.
3. Approval (or approval with conditions or denial) of a Preliminary PUD Plan shall not qualify as a Land Division Act plat of subdivision or Condominium Act Plan of subdivision for the purposes of recording with the Berrien County Register of Deeds. A Preliminary PUD Plan which has been given approval as submitted or subject to conditions that the applicant agrees to, shall not be modified or revoked or otherwise impaired by action of the Township pending an application or applications for Final PUD Plan approval without the express consent of the applicant; provided an application for Final PUD Plan approval is filed for the entire PUD or the initial phase(s) within the time limit specified in paragraph 1 above.

#### **Section 21.07 Final PUD Plan Review Procedures**

- A. **Application.** Following approval of the Preliminary PUD Plan and establishment of the PUD Zoning District, the applicant shall submit the Final PUD Plan, along with the required application form and fees, for all or, if a phased PUD, the initial phase(s) of the project, to the Planning Commission. Application materials shall be submitted no less than 30 business days prior to the next regularly scheduled meeting at which review is

sought. This plan shall contain at a minimum all information and plans included and required under the approved Preliminary PUD Plan, any changes or amendments to the Preliminary PUD Plan, and any additional information necessary or requested by the Township to show consistency with the Preliminary PUD Plan. The applicant shall be responsible for obtaining all necessary permits, recorded documents, or approvals from applicable Township, County, State or other municipal agencies. Proof(s) of approval shall be submitted with the Final PUD Plan.

- B. Planning Commission Action.** The Planning Commission shall review the Final PUD Plan, together with any reports and recommendations from staff, consultants, and other reviewing agencies. The Planning Commission shall address whether the Final PUD Plan conforms to the approved Preliminary PUD Plan, any conditions or requirements therein, and the land use goals and objectives of the Township and the PUD. Following its review, the Planning Commission shall take action to approve, approve with conditions, or deny the Final PUD Plan, based on the following standards:
1. Compliance with Section 21.01, Intent & Purpose;
  2. Compliance with Section 21.02, General Requirements;
  3. Conformance of the Final PUD Plan with the Preliminary PUD Plan;
  4. Conformance with the Township Development Plan; and
  5. Conformance with the standards of Section 22.06, Criteria for Site Plan Approval.
- C. Expiration.** An approved Final PUD Plan shall expire two (2) years after the date of its approval by the Planning Commission, unless building permits have been issued and meaningful construction has commenced on the project. Upon written request received by the Zoning Administrator prior to the expiration date, the Planning Commission may grant an extension of up to an additional 180 days, *provided however*, that site conditions have not changed in a way that would affect the Final PUD Plan.
- D. Occupancy.** All required improvements, or for a phased PUD, all required improvements within each phase of the project, shall be constructed and completed as provided in this Ordinance prior to issuance of any occupancy permit. However, the Township Board may authorize an occupancy permit or permission to occupy buildings before all required improvements are completed if:
1. The applicant provides a performance bond or letter of credit, the form and substance of which shall be acceptable to the Township Board, in an amount equal to the cost of the improvements yet to be completed;
  2. The improvements will be completed within six (6) months from the date the permit is issued; and

3. The health, safety, and welfare of the residents or occupants of the PUD will not be impaired by the delay in completion of the improvements.
- E. **Applicable Regulations.** All requirements of this Zoning Ordinance shall apply, unless specifically modified by this Chapter or approved as part of the Final PUD Plan.

**Section 21.08 Existing PUD Districts Prior to Effective Date.**

There exist several Planned Unit Developments within the Township that were approved at various times and under various regulations and/or ordinances that are zoned PUD or carry an existing Special Use Overlay approval for a PUD. The intent of this Section is to address the application of this Ordinance in such circumstances where a PUD or PUD Plan was approved, or application process begun prior to the effective date of this Ordinance.

- A. **Approved PUD.** Unless otherwise provided herein, a Preliminary or Final PUD Plan that was approved prior to the effective date of this Ordinance, including its approved conditions, which may not conform to the requirements of this Ordinance, as amended, shall be valid and no change or amendment in the approved PUD Plan is required; provided the project follows and/or is completed in conformance with the approved PUD Plan, and the applicable standards, or ordinances existing at the time of the approval. However, any change or amendment to the approved PUD Plan shall conform to the requirements of this Ordinance.
- B. **Time Limit.** If a Preliminary or Final PUD Plan has been approved, prior to the date of adoption of this Ordinance, the approval shall be valid for the periods of time granted by Sections 21.06.H.2. and 21.07.C. If the prior PUD approval expires, the development shall conform to all requirements of this Chapter.
- C. **Unapproved Preliminary Plan.** Where a PUD application process has been initiated (eg. Sketch Plan submitted), but a Preliminary PUD Plan has not been approved prior to the effective date of this Ordinance, the proposed PUD shall comply with the requirements of this Ordinance for approval (eg. Section 21.04-21.07). The proposed PUD shall be reviewed and processed, subject to the standards and requirements of this Ordinance.

**Section 21.09 Amendments to an Approved PUD Plan**

The Township Zoning Administrator shall be notified in writing of any proposed amendments to an approved PUD Plan.

- A. A minor change in the Final PUD Plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that the change does not substantially affect the basic design or alter any conditions imposed by the Commission.

- B. The following items shall be considered as minor changes:
1. reduction of the size of any building or sign;
  2. movement of buildings and/or signs by no more than ten (10) feet;
  3. replacement of plantings approved in the landscape plan with similar types of materials;
  4. changes of building materials to a higher quality;
  5. changes in floor plans which do not alter the character of the use;
  6. internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
  7. changes required or requested by Township, County, State, or Federal agencies for safety reasons;
  8. changes which will preserve the natural features of the site without changing basic site layout; or
  9. other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the site which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.
- C. The Zoning Administrator may refer any proposed change to the Planning Commission for review and approval, regardless of whether the change may qualify as a minor change.
- D. In the event the Zoning Administrator determines that a proposed change is not a minor change, resubmission of the Preliminary PUD Plan to the Planning Commission shall be required and the Plan shall be processed in conformance with Section 21.06.

**Section 21.10 Noncompliance / Rezoning**

- A. Approval of all or a portion of the PUD District may be rescinded by the Township Board upon determination that the approved Preliminary PUD Plan or Final PUD Plan has been violated, or that the site has not been improved, constructed or maintained in compliance with approved permits, or approved Preliminary or Final PUD Plan.
- B. To rescind all or part of an approved PUD District, the Township shall initiate Zoning Ordinance Amendment proceedings pursuant to Chapter 27 as necessary to revoke the PUD District status for the subject property and rezone the property to another classification, as deemed appropriate based on the Township Development Plan

designation and the conditions of the surrounding area. The Planning Commission shall conduct a public hearing, after which a recommendation shall be made to the Township Board. The decision of the Township Board with regard to the rezoning shall be made, and written notification provided to the developer, owner or designated agent.

- C. Upon rezoning of the property, the PUD will be voided and the property designation will be changed on the Township's official zoning map.
- D. Any property developed or constructed within the project may be, upon the recommendation of the Planning Commission and discretion of the Township Board, retained in the PUD District or given the zoning designation which coincides, as closely as reasonably possible, to the development, construction, or use thereon at the time.

**Section 21.11     Appealing PUD Decisions.**

An appeal of a PUD decision shall not be heard by the Zoning Board of Appeals. Such an appeal shall be to the Berrien County Trial Court – Civil Division.

## CHAPTER 22

### SITE PLAN REVIEW AND APPROVAL

#### Section 22.01 Purpose

The site plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Royalton Township Development Plan will be assured, and the Township will develop in an orderly fashion.

#### Section 22.02 Determination of Whether Site Plan Review is Required.

A. Submission of a site plan shall be required for any of the following:

1. Any development or use for which submission of a site plan is required by provisions of this Ordinance.
2. Any special land use or planned unit development (PUD).
3. Any development or use, when the Zoning Administrator requires a review.

[Amended 3/8/2010]

B. **Exempt Development.** Unless specifically required by the provisions of this Ordinance the following developments are exempt from the provisions of this Chapter, however a plot plan shall be submitted to and approved by the Zoning Administrator and a zoning permit is required, in accordance with Section 25.06, Zoning Permits:

1. Single and two-family dwelling units on individual lots.
2. Residential accessory buildings (for personal use) in residential or agricultural zoning districts. [Amended 3/8/2010]
3. Agricultural accessory buildings located in agricultural zoning districts.

C. **Site Plan Review Not Required by the Planning Commission.** Uses with approved site plans, which propose a one-time change constituting ten percent (10%) or less of the building floor area for structures of 5,000 square feet or more, twenty percent (20%) or less of the building floor area for structures less than 5,000 square feet or ten percent (10%) or less of the required parking spaces, may be reviewed, approved and administered by the Township Zoning Administrator. Such review and approval by the Township Zoning Administrator shall be reported to the Planning Commission at the next

regularly scheduled meeting. However a plot plan shall be submitted and a zoning permit is required, in accordance with Section 25.06, Zoning Permits.

- D. Uses or activities not requiring site plan review before the Planning Commission shall submit to the Zoning Administrator a plot plan with adequate dimensions and such information deemed necessary by the Zoning Administrator to assure that the proposed development complies fully with the requirements of this Ordinance.

### **Section 22.03 Required Information for Site Plans**

- A. **Site Plan Information.** Each request for site plan review shall be accompanied by a detailed site plan, which shall consist of a survey of the entire property which complies with the requirements of PA 132 of 1970, as amended, including all land within 50 feet of the site. The scale of the site plan shall be not less than 1 inch = 50 feet if the subject property is less than 3 acres, and 1 inch = 100 feet if 3 acres or more. If multiple sheets are used, each shall be labeled and identify the professional who prepared the sheet. The following information shall be included on all site plans. However, the Chairperson of the Planning Commission may, upon written request, determine that some of the required information is not necessary due to the scope and nature of the proposed project:

1. **Submission Requirements.**

- a. Completed application on approved forms.
- b. 12 copies of the required materials.
- c. Signed copy of the Site Plan Checklist demonstrating that all required materials and documents have been provided and all requirements have been satisfied.
- d. All required fees.

2. **General Information.**

- a. Name of development and a vicinity map showing the location of the site in relation to the surrounding street system.
- b. North arrow, graphic scale, legend, and date of original drawing and revisions.
- c. Name, address, and telephone and facsimile numbers of owner(s), developer, engineer, architect, designer, and/or surveyor.
- d. The legal description and address of the property in question.

- e. The seal and signature of one of the following professionals registered in the State of Michigan responsible for preparation of the plans: Registered Architect, Licensed Professional Civil Engineer, Registered Landscape Architect, Professional Surveyor, or Registered Professional Community Planner. The architectural plans of any proposed buildings shall be prepared by and bear the seal of a Registered Architect. A builder or contractor may prepare a site plan for an alteration or addition to an existing structure.
- f. Demonstration of compatibility of proposed development with surrounding area.

**3. Existing Conditions.**

- a. Area (both gross lot area and net lot area) and dimensions of each existing lot depicted on plan.
- b. Existing topographic elevations at two (2) foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions on and within fifty (50) feet of the property. Elevations are to be based on NAVD (North American Vertical Datum) of 1988 standards.
- c. Existing drainage system.
- d. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands, and proposed drainage ways on and within fifty (50) feet of the property
- e. The location and width of all existing public or private roads, rights-of-way or private easements of record, abutting streets, alleys, walkways and pathways, and driveway locations to abutting streets.
- f. The boundaries of adjacent properties within 50 feet of the subject property shall be clearly indicated on the site plan.
- g. Graphically show setback requirements for all current and proposed buildings on the site
- h. If the parcel is a part of a larger tract of land, the boundaries of the entire tract shall be indicated.



- i. Existing land uses and zoning classification of the subject parcel(s) and adjacent parcels.
- j. Location and type of existing vegetation, including location of all existing trees over five (5) inches in diameter. Where stands of trees are to be preserved, the general location may be indicated.
- k. The location of all easements, existing and proposed, affecting the property, including but not limited to easements for proposed rights-of-way, utilities, access, shared access, and/or drainage.
- l. The location and dimensions (length, width, finished floor elevations) of all existing and proposed structures on the subject property and all existing structures within fifty (50) feet of the subject property. Building heights for all proposed structures must also be shown. This requirement shall not apply to single family residential developments; provided a building envelope shall be shown on each individual lot.

**4. Proposed Site.**

- a. Phasing plan (if applicable).
- b. Density calculations.
- c. Ground coverage ratios.
- d. Location of proposed easements.
- e. Location of proposed utilities.
- f. Locations of existing and proposed fire hydrants with reasonable access thereto for fire fighting, police and other emergency equipment.
- g. Soil erosion and sedimentation control measures.
- h. Storm water management plan.
- i. Notation of any variances that have been or must be secured.
- j. Any lot split or combinations required.

**5. Circulation/Parking.**

- a. Location of and dimensions of proposed streets, rights-of-way or easements, drives, walkways and pathways, curb cuts, and access

easements, as well as acceleration, deceleration and passing lanes (if any) serving the development.

- b. The inside radius of all curves.
- c. Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements) and type of surfacing.
- d. Location and size of loading spaces.
- e. All directional signage and pavement markings.
- f. Proposed street names.

**6. Structures.**

- a. Type of building materials, colors, dimensions.
- b. Building elevations of the proposed structure(s) from each direction.
- c. Floor plans.
- d. All existing and proposed overhangs or canopies and the proposed height above ground elevation.

**7. Residential Projects.**

- a. Yard dimensions illustrating the minimum setback dimensions, the building envelope, and the distance from the proposed structure to the closest property line.
- b. Recreational facilities.
- c. Open space: location and percentage of project area.

**8. Commercial Projects.**

- a. Floor plan illustrating the various use areas (office, storage, customer/employee, etc.) and dimensions.
- b. Number of employees at maximum shift.
- c. Number of floors.

- d. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
- e. Proposed outdoor storage.

9. **Landscape Plan.**

- a. Location, spacing, size and species of plants.
- b. Plant material to be retained or removed.
- c. Ground cover and method of irrigation.
- d. Maintenance procedures.

10. **Signage.**

- a. The dimensions and location of all signs, both existing and proposed. This includes wall signs and free-standing signs, and the associated lighting structures and shielding.
- b. Color, lettering style, and materials.

11. **Additional Site Plan Information.** The following additional items may be required to be included with site plans at the discretion of the Zoning Administrator and/or township Planning Commission. These items are not applicable to all development types but will be required on site plans where applicable and germane to the required review.

- a. Building elevations of proposed structures.
- b. A site summary indicating the number and location of one bedroom units, two bedroom units, etc., typical floor plans with the square feet on floor areas; density computation, recreation facilities, open spaces, street names, and lot coverage.
- c. The number of offices, the size of the retail or manufacturing area, number of employees, the number of floors, floor areas, typical floor plans and cross sections. Open spaces, street names and lot coverage shall also be included.
- d. Proposed type of building materials, roof design, projections, roof-located mechanical equipment, such as: air conditioning, heating units and transformers that will be visible from the exterior.

- e. Detailed landscaping plan indicating location, types and sizes of material, in compliance with the landscaping requirements set forth in Chapter 20.
- f. All proposed screening and free standing architectural walls, including typical cross-sections and the height above ground on both sides.
- g. Greater detail regarding the proposed traffic and pedestrian circulation patterns, both within the site and on the streets adjacent to the site and the proposed location and dimensions of any required pedestrian sidewalks. Designate loading and unloading areas, barrier free access, any fire lanes, and carports.
- h. Proposed water service facilities and easements including any proposed tap-ins, main extensions or extensions for adequate fire hydrant spacing, and/or considerations for extensions to loop to other public water mains.
- i. Proposed storm water management plan as recommended by Berrien County Drain Commissioner.
- j. Soil erosion and sedimentation control measures.
- k. Location and specifications for any existing or proposed outdoor or below ground storage facilities as well as any screening, containment structures, or clear zones required by government authorities.
- l. The size, location and description of any proposed interior or exterior areas or structures for storing, using, loading or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site in quantities greater than 100 kilograms or 25 gallons per month.
- m. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
- n. Notation of performance guarantees to be provided including amounts, types, and terms.
- o. For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated. A detailed site plan needs to be submitted for one or more individual phases prior to development of the phase(s). A general site plan which clearly indicates the overall project intent must also be submitted for the remainder of the site. Each phase must be integrated and consistent with the overall plan for the larger development and each phase must be self-sufficient.

- p. Information and special data that may be critical to the adequate review of the proposed use and its impacts on the site or Township. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services, impact on historical or cultural resources, displacement of people or other uses as a result of the proposed development, alterations of the character of the surrounding area, effect on the Township's tax base and adjacent property values, or other data which the Township may reasonably deem necessary for adequate review.

#### **Section 22.04 Preliminary Site Plan Consideration / Pre-Application Meeting**

The pre-application meeting is an informal review of the conceptual development and discussion of the application requirements, procedures, and approval criteria. The purpose of this informal review is to discuss applicable standards and technical issues, and to comment on the project's compliance with the standards of this Ordinance. The applicant or Planning Commission may also request input from the Building Inspector and other Township officials or consultants. Conceptual plans should include, at minimum, the proposed use, building footprint, existing conditions, general site layout and conceptual grading. Conceptual plan review comments are non-binding, and should be considered by the applicant to be suggestions and recommendations only. A review fee may be required for conceptual plan review, as determined by Township Board resolution. The pre-application meeting may be required at the discretion of the Zoning Administrator to specify the information that will be required during the review process.

#### **Section 22.05 Application Process**

- A. **Application.** The owner of an interest in land for which site plan approval is sought, or the owner's designated agent, shall submit a completed application form and sufficient copies of a site plan to the Township. Such application shall be submitted in accordance with the procedures established by the Zoning Ordinance. The site plan shall be prepared in accordance with the provisions of this Chapter, including all appropriate information required by Sections 22.03. A site plan that does not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission. [Amended 3/8/2010]
- B. **Application Form.** Each request for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:
  - 1. The applicant's name, address, telephone and facsimile numbers, and signature.
  - 2. The address and parcel number of the property.

3. The application shall be executed by the owner(s) of the property. The application may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest.
  4. The address of the applicant to whom all correspondence regarding the application and site plan review the process should be sent.
  5. Project description in narrative form, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information.
  6. The gross and net acreage of all lots or parcels in the project.
  7. Existing zoning classification, land uses, and structures on the subject parcel.
  8. Name, address, and telephone number of developer (if different from the applicant), engineer, architect, and/or land surveyor.
  9. Project completion schedule/development phases.
  10. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
  11. The appropriate fee as set by the Township Board.
  12. The application shall grant a right of entry onto the subject property to the Zoning Administrator, members of the Planning Commission, and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.
- C. **Number of Copies.** Every site plan submitted to the Planning Commission shall be in accordance with the requirements of this Ordinance. Twelve (12) complete copies of all site plans shall be filed with the Zoning Administrator. Only requests with complete applications will be placed on the Planning Commission's agenda. [Amended 3/8/2010]
- D. **Technical Review.** Prior to Planning Commission consideration, the site plan and application shall be distributed to the Building Inspector, the Road Commission, the Sheriff's Department, the Fire Department, and/or additional Township officials and staff for review and comment. If deemed necessary by the Planning Commission, the plans shall also be submitted to applicable outside agencies and designated Township consultants for review and comment.

- E. **Planning Commission Consideration.** The Planning Commission shall review the site plan together with any reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and the criteria for approval (Section 22.06). The Planning Commission is authorized to postpone, approve, approve subject to conditions or deny the site plan as follows:
1. **Postponement.** Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial, or upon a request by the applicant, the Planning Commission may postpone consideration until a later meeting.
  2. **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied. If a plan is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant, or the applicant's designated representative, to attend more than one meeting shall be grounds for the Planning Commission to deny approval of the site plan.
  3. **Approval.** Upon determination that a site plan is in compliance with the requirements of this Ordinance and other applicable ordinances and laws, the site plan shall be approved.
  4. **Approval subject to conditions.** The Planning Commission may approve a site plan, subject to one or more conditions necessary to address minor modifications to the plan, ensure that public services and facilities can accommodate the proposed use, protect significant natural features, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Ordinance. Such conditions may include the need to obtain variances or approvals from other agencies.
- F. **Recording Action.** Planning Commission action on the site plan shall be recorded in the Commission meeting minutes, stating the name and location of the project, the proposed use, the most recent plan revision date, and the conditions or grounds for the Commission's action. The Secretary shall mark and sign two (2) copies of the site plan "APPROVED" or "DENIED" as appropriate, with the date that action was taken and any conditions of approval. One (1) copy shall be kept on file in the Township office, and one (1) shall be returned to the applicant.

## **Section 22.06 Criteria for Granting Site Plan Approval**

In the review of all site plans, the Zoning Administrator and the Planning Commission shall endeavor to assure the following:

- A. The proposed development conforms to all provisions of the Zoning Ordinance.
- B. All required information has been provided.
- C. The movement of vehicular and pedestrian traffic within the site, between adjacent sites or phases, and in relation to access streets and sidewalks will be safe and convenient.
- D. The proposed development will be harmonious with existing and future uses in the immediate area and the community.
- E. The proposed development provides the necessary infrastructure improvements, such as roads, drainage, pedestrian facilities and utilities, and parking and loading spaces, to serve the site, and be adequately coordinated with the current and future use of adjacent properties.
- F. The applicable requirements of Township, County and State agencies are met regarding grading and surface drainage and for the design and construction of storm sewers, storm water holding facilities, water mains, and sanitary sewers.
- G. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner that will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, and woodlands.
- H. All elements of the site and building design are harmoniously and efficiently organized in relation to topography, parcel configuration, adjacent properties, traffic operations, adjacent streets and driveways, pedestrian access, open space, and the type and size of buildings to achieve the goals and objectives of the Township Development Plan.

**Section 22.07 Performance Guarantee**

To ensure compliance with the Zoning Ordinance and any conditions imposed within, the Planning Commission may require that a cash certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the Township to ensure faithful completion of the improvements and also be subject to the following:

- A. The performance guarantee shall be deposited prior to the issuance of a building permit. The Township shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. Any partial release of funds shall be less than 10%, which shall be retained by the Township until all work has been completed and subsequently inspected and approved by the Building Inspector. This does not relieve the applicant



from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper function of said public improvements.

- B. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended (the state Subdivision Control Act).
- C. As used in this section, "improvements" mean those features and actions associated with projects which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage. Improvements do not include the entire project that is the subject of zoning approval.

### **Section 22.08 Issuance of Building Permit After Site Plan Approval**

Construction plans shall be submitted for review by the Building Inspector and, as applicable, the Township Engineer. Upon review and finding that the construction plans meet with the requirements of site plan approval and other applicable ordinances of the Township and upon payment of any required financial guarantee, the Building Inspector shall issue a building permit for construction.

### **Section 22.09 Site Plan Resubmission, Appeals, or Expiration**

- A. **Resubmission.** A plan that has been denied may be revised by the applicant to address the reasons for the denial and then resubmitted for further consideration. The resubmitted plan shall be subject to the same requirements and review procedures as a new site plan submitted in accordance with this Article.
- B. **Appeals.**
  - 1. The Zoning Board of Appeals shall not have the authority to consider appeals of plan determinations. Appeals of Planning Commission decisions shall be made before the Township Board, and must be filed with the Township Clerk within thirty (30) days of a decision by the Planning Commission.
  - 2. When applications before the Planning Commission also require approval of one or more variances from specific requirements of this Ordinance, the applicant shall immediately initiate such a request to the Zoning Board of Appeals. The applicant shall seek the required approval(s) from the ZBA prior to appearing before the Planning Commission.
- C. **Expiration of site plans.**

1. **Plan approval.** Site plans shall expire 365 days after the date of approval.
2. **Extension of approval.** Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one (1) extension of up to 180 days, provided that site conditions have not changed in a way that would affect the character, design, or use of the site, and that the approved site plan remains in conformance with all applicable provisions of this Ordinance.

### **Section 22.10 Conformity to Approved Site Plan Required**

Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of Chapter 26.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator two (2) copies of an "as built" site plan, certified by an engineer or architect, at least one (1) week prior to the anticipated occupancy of any building. The Building Official shall withhold the Certificate of Occupancy in any case where the site plan and major conditions as approved by the Planning Commission have not been complied with. Any minor variations may be approved by the Zoning Administrator, and shall be reported to the Planning Commission within 30 days after the issuance of Certificate of Occupancy.

## CHAPTER 23 SPECIAL USE REVIEW AND APPROVAL

### Section 23.01 Purpose

- A. **Intent.** The procedures and standards set forth in this Chapter are intended to provide a consistent and uniform method for review of proposed plans for special uses.
- B. **Purpose.** The purpose of incorporating special use permits into the Zoning Ordinance is based on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts, and within each district the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses that, while generally compatible with other uses in a particular zoning district, may not be suitable for each property located within that district. Furthermore, there are certain uses that, because of their unique characteristics, may require additional development standards to minimize potential impacts to adjacent and nearby properties.
- C. **Permit.** Certain uses are permitted by special use permit in accordance with the various zoning district regulations. When a special use permit is required, no zoning permit shall be issued, no construction for any building or structure shall be commenced, and no use shall be made until and after the Planning Commission approves a special use permit for a particular use on a particular lot in accordance with the procedure set forth in this Chapter.

### Section 23.02 Application Requirements

Special use applications shall be submitted in accordance with the following:

- A. **Eligibility.** The owner or operator of the proposed use, the owner of an interest in the lot where the special use would be located, or by the owner or operator's designated agent, shall submit the application. The applicant or agent is required to be present at all scheduled review meetings.
- B. **Requirements.** Special use applications shall be submitted to the Township on the forms and according to the guidelines provided by the Township, and shall include the following information:
  - 1. The applicant's name, address, telephone and facsimile numbers.
  - 2. The names and addresses of all owners of record, and proof of ownership. If the applicant leases the property, a copy of the lease shall be provided, along with the owner's signed authorization for the application.

3. Legal description, address, location and tax identification number of the property.
4. A certified survey drawing of the subject property. The Zoning Administrator may exempt this requirement.
5. A detailed description of the proposed use.
6. A site plan that meets the requirements of Section 22.03.
7. The appropriate fee as set by the Township Board.
8. Supporting statements, evidence, data, information, and exhibits that address those standards and requirements for assessing special use permit applications outlined in Section 23.04 below.
9. Any other information, including an impact assessment as described in 22.03.A.11.p, deemed necessary by the Planning Commission to determine compliance with the standards for approval set forth in this Ordinance.
10. The application shall grant a right of entry onto the subject property to the Zoning Administrator, members of the Planning Commission, and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.

### **Section 23.03 Review Procedures**

- A. **Concurrent Review.** The special use review and site plan review may occur concurrently at the discretion of the Planning Commission.
- B. **Submission of the Application.** The application shall be filed with the Zoning Administrator, who shall review the application within 15 days of its receipt. In reviewing the application for completeness, the Zoning Administrator may consult with the Chairman of the Planning Commission, the Township Supervisor, the Township Engineer, and any other parties whose input the Zoning Administrator deems necessary for the proper review of the application. If the Zoning Administrator finds that the application is not complete, he shall return the application with a written explanation of the additional information that is required. Once the application is found to be complete, the Zoning Administrator shall schedule the application for a Public Hearing at a regular meeting of the Planning Commission.
- C. **Public Hearing and Notice Requirements.** Upon receipt of a complete application, the Secretary of the Planning Commission shall schedule a public hearing on the request. Notice of the public hearing shall be given by publishing said notice not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the Township. The Secretary shall also give a written notice of the public hearing to the

owner(s) of the property in question, and shall provide written notice to all persons who own real property within 300 feet of the property in question, and to occupants of all structures within 300 feet of the subject property, whether the property is located within Royalton Township or not. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll not less than fifteen (15) days before the public hearing. If the tenant's name is not known, the term "occupant" may be used.

The notice shall describe the nature of the request and indicate the subject property involved in the request including all street addresses. If no street addresses are available, then another means of identifying the subject property may be used. The notice shall also state the date, time and place for the public hearing and indicate when and where written comments concerning the proposed rezoning will be received.

Public notice shall also be given in the manner required by the Open Meetings Act, Public Act 267 of 1976. The Township Clerk shall maintain an affidavit of notice's publication. An affidavit of mailing or personal delivery shall be filed with the Planning Commission before the hearing. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney

- D. **Planning Commission Consideration.** Subsequent to the hearing, the Planning Commission shall review the application for the special use, together with any reports and recommendations from staff, consultants, and other reviewing agencies, and any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and the standards in Section 23.04. The Planning Commission may postpone consideration of the special use application, approve, approve subject to conditions, or deny the special use. Any decision on a request for a special use shall be incorporated in a statement of findings and conclusions relative to the special use which specifies the basis for the decision and any conditions imposed.
- E. **Recording.** Each action taken with reference to a special use proposal shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.

#### **Section 23.04 Standards for Approval**

Approval of a special use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards applicable to the use:

- A. **A need exists for the proposed use.** The applicant must show that a need exists for the proposed use within the Township.

- B. **Compatibility with adjacent uses.** The use is compatible with adjacent uses and the existing or intended character of the surrounding area, and will not have an adverse impact upon or interfere with the development, use or enjoyment of adjacent properties, or the orderly development of the area or Township as a whole.
- C. **Compatibility with the Royalton Township Development Plan.** The location and character of the use is consistent with the general principles, goals, objectives, and policies of the adopted Royalton Township Development Plan.
- D. **Compliance with applicable regulations.** The use is in compliance with all applicable Zoning Ordinance provisions, including the conditions of Site Plan approval listed in Section 22.06. In addition, the proposed use complies with any other applicable Township codes and ordinances, federal and state laws, and outside agency regulations.
- E. **Impact upon public services.** The impact of the use upon public services will not exceed the existing or planned capacity of such services, including but not limited to utilities, streets, police and fire protection services, and educational services.
- F. **Traffic impacts.** The use is designed and located in a manner that minimizes any adverse traffic impacts.
- G. **Impact upon the environment and the public health, safety, and welfare.** The use will not be detrimental or injurious to the environment or the public health, safety, and welfare by reason of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, drainage, topographic changes, or other adverse impacts. The proposed use shall be compatible with the natural environment.
- H. **Documentation.** The Planning Commission may require that documentation and/or other specific evidence be submitted to indicate compliance with any or all of the standards provided above.

### **Section 23.05 Special Use Expiration, Duration, Amendment, and Revocation**

- A. **Expiration of Special Use Approval.** Special use approval shall expire 365 days after the date of approval, unless the use has been established on the site or there has been consistent, diligent work towards establishing the use on the site. Special uses shall also expire upon expiration of the approved site plan associated with a special use. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one (1) extension of up to 180 days, provided that the special use conforms to current Zoning Ordinance standards.
- B. **Effective Duration of Special Use Approval.** Special use approvals shall run with the owner/operator granted approval of the special use and may be issued for specified periods based upon the impacts of the proposed use to surrounding property. The sale, transfer or conveyance of the property on which the special use is located shall nullify the

special use approval. Any new proposed owner or operator shall be required to submit and be approved by the Planning Commission for a new special use permit in order to continue said operation or activity.

- C. **Existing Uses.** When a use is classified as a special use under this ordinance, and existed as a permitted use at the date of adoption of this ordinance, it shall be considered a special use without further action of the Planning Commission.
  
- D. **Amendments to Special Uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special use, the application shall be subject to the same procedures followed for an original special use. The denial of an application to amend an existing Special Use Permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) Special Use Permit approval.
  
- E. **Rescinding Approval of Special Uses.** Approval of a special use may be rescinded by the Planning Commission upon determination that the use has not been improved, constructed, or maintained in compliance with this Ordinance, approved permits, site plans, or conditions of site plan or special use approval. Such action shall be subject to the following:
  - 1. **Public Hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 23.03.C, at which time the owner or operator of the use or owner of an interest in land for which the special use was sought, or the owner or operator's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
  
  - 2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator, or designated agent.

## **CHAPTER 24**

### **SITE CONDOMINIUMS**

#### **Section 24.01 Intent**

Site Condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a “lot” for purposes of determining compliance with the requirement of the Zoning Ordinance and other applicable laws, ordinances, and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project.

Site condominium projects may be approved as provided by this Chapter in any zoning district for the uses permitted (including those permitted by special land use permit) by the Zoning Ordinance in the zoning district in which the project is located.

#### **Section 24.02 Definitions**

For the purposes of this Chapter, the following words and phrases are defined as follows:

- A. “Building envelope” means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.
- B. “Building site” means either:
  - 1. The area within the site condominium unit by itself (i.e. exclusive of any appurtenant limited common element), including the area within the building envelope and the area around and contiguous to the building envelope; or
  - 2. The area within the condominium units [as described in 24.02(B)(1)], taken together with any contiguous and appurtenant limited common element. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, height, area, yard and density requirements) or with other applicable laws, ordinances or regulations, a “building site” shall be considered to be the equivalent of a “lot.”



- C. “Condominium Act” means Public Act 59 of 1978, as amended.
- D. “Limited common element” means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site condominium unit.
- E. “Site condominium project” means a plan or project consisting of not less than two site condominium units established in compliance with the Condominium Act.
- F. “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.
- G. Except as otherwise provided by this Chapter, the following words and phrases, as well as any other words or phrases used in this Chapter which are specifically defined in the Condominium Act, shall conform to the meanings given to them in the Condominium Act: “common elements”; “condominium documents”; “condominium unit”; “contractible condominium”; “convertible area”; “expandable condominium”; “general common elements”; and “master deed”.

### **Section 24.03 Compliance with Standards**

In addition to complying with all requirements of the Condominium Act, Public Act 59 of 1978 as amended, the following standards shall also be complied with:

- A. **Zoning Standards.** A site condominium development, whether intended for residential, commercial, or industrial use shall be subject to all of the requirements and standards of the applicable Zoning District in which the development is located.
- B. **Engineering Standards.** The design of a site condominium project shall be subject to the design layout and engineering standards, as provided in the following subsections, except as may otherwise be provided by the Zoning Ordinance.
- C. **Open Space.** Open space area that protects valuable natural resources or provides functional passive and/or active recreation space for residents may be required by the Planning Commission based on the layout of the development. Portions of the site that are unbuildable due to size or other conditions shall be provided as permanent open space as a part of the development.
- D. **Site Circulation.** The vehicular and pedestrian circulation system within each development shall accommodate, where appropriate, the movement of vehicles, bicycles, and pedestrians throughout the proposed development and to and from surrounding areas in a safe and convenient manner. Developments in excess of 50 units shall at the

discretion of the Planning Commission provide a minimum of two methods of ingress and egress. Sidewalks and streets shall be connected into the overall Township circulation network, and shall be extended to adjacent undeveloped properties to provide future connections. Any improvements, if necessary, shall be at the applicant's expense. All sidewalks and pedestrian walkways shall comply with the standards set forth by Township Ordinances.

- E. **Streets.** All public and private streets within a Site Condominium shall comply with the applicable standards of the Berrien County Road Commission and Royalton Township.
- F. **Sidewalks.** Sidewalks shall be installed in all single-family detached site condominium developments. Access to all general common areas shall be provided. Upon review of the site plan, the Planning Commission may approve alternate locations for the sidewalks or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation. Sidewalks shall conform to the following requirements:
1. All sidewalks must be a minimum of five feet (5') in width, constructed of concrete and meet any other design standards established by Royalton Township.
  2. Sidewalks must be located on both sides of all streets, unless the Planning Commission determines that this is unnecessary based on the character of the development.
  3. Sidewalks and curb ramps must be ADA compliant.
- G. **Easements.** The following requirements apply to easements located within site condominiums.
1. Location of utility easements shall be provided as necessary for utilities.
  2. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the proposed condominium development plan to all appropriate public utility agencies.
  3. Easements six feet (6') in width, three feet (3') from condominium unit site boundaries shall be provided where applicable so as to provide for street light dropouts. Prior to the approval of the condominium subdivision plan, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific condominium unit boundaries. A notation shall be made on the condominium subdivision plan indicating: "The side boundary lines between condominium units (indicating building envelope numbers) are subject to street light dropout rights granted to the (name of utility company).

4. Drainage easements shall be provided, which conform substantially with the lines of any natural watercourse, drainage ditch, channel, or stream. Such easements shall be of adequate width for the particular conditions of the site and shall meet with the approval of the Berrien County Drain Commissioner.

H. **Utilities and Improvements.** Utilities and improvements installed or proposed in site condominium developments shall conform to the following standards.

1. **Storm Drainage.** An adequate storm drainage system, including necessary storm sewers, catch basins, manholes, culverts, bridges, laterals, and other appurtenances, as approved by the Township or their consultant, shall be required in all developments. Adequate provision shall be made for proper drainage or storm water from the rear yards of condominium units. Drainage of each yard shall be self-contained and shall be drained from rear to front except where topography or other natural features require otherwise. The Planning Commission may require that all storm sewers be installed within the public rights-of-way or within the general common elements and dedicated to the County when, in the opinion of the Planning Commission, dedication of the same would be in the best interest of the Township. The Berrien County Drain Commissioner shall review all plans for storm drainage and approve the proposed storm drainage system and grading prior to final approval.
2. **Sewage Disposal.** Each unit in the site condominium shall be provided with adequate sanitary sewage disposal capabilities. Where possible the development shall be tied into the public sewer system, and it shall be constructed in such a manner so as to adequately serve all condominium units shown on the condominium subdivision plan. If the development is not close enough to tie into the public sewer system, then private systems or septic systems shall be installed. These systems must be approved by the Berrien County Public Health Department prior to Final Site Condominium Plan approval. All sewer mains and appurtenances should be located in general common elements or easements where possible.
3. **Water Supply.** Each unit in the development shall be provided with adequate water supply capabilities. Where possible, the development shall tie into the public water system, and it shall be constructed in such a way to adequately serve all condominium units and continue to serve existing Township water system users. If the development cannot tie into the water system, then a well or well system shall be provided for water consumption. All wells must be approved by the Berrien County Public Health Department prior to Final Development Plan approval.
4. **Telephone lines, Electric lines, Television lines, etc.** The proprietor shall make arrangements for all lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout the development area, and such conduits or cables shall be placed within private

easements provided to such service companies by the developer or within dedicated public ways. Overhead lines may be permitted upon written recommendation of the Township Engineer and the approval of the Planning Commission at time of preliminary plan approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design, and character of the development and as absolutely necessary for the provision of that particularly utility line. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations that traverse privately held property should be protected by easements granted by the proprietor.

- I. **Availability and Capacity of Public Services.** The proposed type and intensity of use shall not exceed the existing or planned capacity of existing public services and facilities, including police and fire protection, traffic capacity of the Township's public roads, drainage and storm water management facilities, availability of water, and capacity of existing or planned sanitary sewer facilities. The appropriate County agency and the Township Engineer shall approve all facilities necessary for the development.
- J. **Condominium Units.** Condominium units within site condominium developments shall conform to the following standards.
1. The condominium unit size, width, depth, and shape in any site condominium shall meet the approval of the Planning Commission and shall be appropriate for the location and type of development contemplated. Condominium units shall be of such size as to permit a variety of housing types, to provide side yards for desirable access, light, air, privacy, and safety from fire hazards, and to provide for setbacks from the street line and allow sufficient space for household purposes.
  2. Condominium units shall be designed so that the building site areas and widths and building setback lines shall conform to at least the minimum requirements of the Royalton Township Zoning Ordinance for the District in which the site condominium is proposed.
  3. Excessive condominium unit depth in relation to width shall be avoided. A depth-to-width ratio of 4 to 1 shall be considered a maximum.
  4. Condominium units intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setback, and other requirements in accordance with the Royalton Township Zoning Ordinance.
  5. Every condominium unit shall front or abut on a street for the full width of the unit. The measurement of unit width shall be determined in the manner as

prescribed in Chapter 2 of the Royalton Township Zoning Ordinance, “Definitions” which states lot width is the horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required front setback.

6. Side condominium unit lines shall be at right angles or radial to the street lines.
  7. Residential condominium units abutting major thoroughfares or arterials, shall be situated with reverse frontage condominium units or with side condominium unit lines parallel to the major traffic streets.
  8. Condominium units shall have a front-to-front relationship across all streets where possible.
- K. **Ownership.** At the time of preliminary Site Condominium approvals, the proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for the development of the project. This provision shall not prohibit a transfer of ownership or control of separate phases subsequent to preliminary site condominium approval of the overall development.
- L. **Phasing.** Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of services and facilities, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the development and residents of the community.
6. A description of the phased process in writing that describes all work to be done in each phase and the proposed timing shall be submitted to the Planning Commission with the preliminary plan.
  7. Construction for each phase shall commence within one (1) year of the schedule set forth in the phasing plan or the phasing plan will expire.
  8. The applicant may at any time following approval of the Preliminary Site Condominium Plan and phasing plan submit a revised phasing plan for approval by the Planning Commission. The revised plan shall be accompanied by a statement indicating the conditions which made the previous phasing plan unachievable. Once construction has commenced, approval of a revised phasing plan shall not be unreasonably withheld or denied, provided that the revised phasing does not materially change the integrity of the approved development, as determined by the Planning Commission.
  9. A phase shall not be substantially dependant upon subsequent phases for safe and convenient vehicular and pedestrian access.

10. All of the required open space for a site condominium development shall be approved by the time 50% of the development has successfully passed through the Final Site Condominium process.
  11. Each phase or outlot shall require Final Site Condominium review and approval and be consistent with the approved Preliminary Site Condominium Plan and agreements.
- M. **Landscaping.** A landscaping plan shall be submitted with both the Preliminary and Final Site Condominium plans consistent with the requirements in Chapter 20.
- N. **Schools.** Streets and pedestrian walkways shall be designed and located to facilitate the ability of students to make the best and safest use of existing schools and school related facilities.

#### **Section 24.04 Sketch Plan Review**

Applicants are first required to meet with the Planning Commission and Township Board for initial review of conceptual Site Condominium plans. The purpose of this initial review is to discuss applicable standards and technical issues, comment on the project's compliance with the standards of this Ordinance, and discuss the procedures for review. The Planning Commission and/or Township Board may also request input from staff and consultants. A review fee may be required for Sketch Plan Review, as determined by the Township Board.

- A. An application for sketch plan review shall be submitted no less than 15 business days prior to the next regularly scheduled meeting at which review is sought and accompanied by the following information:
1. Applicant's name, address, and telephone number.
  2. Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as purchase agreement).
  3. Address, parcel ID number, and zoning designation of the property.
  4. Legal description and size of property.
  5. A location map showing uses and ownership of abutting lands and the surrounding circulation system.
  6. Size of the project in acres.
  7. Information on how utilities will be provided to the development.
  8. A sketch plan, drawn to scale, showing the following:

- a. Existing and proposed use of the property
  - b. Building footprint(s)
  - c. Boundary of subject property and contiguous properties
  - d. Existing conditions and characteristics, including topography, wetlands, surface water, zoning, improvements, easements, etc.
  - e. General site layout (lots, units, out lots, roads, etc)
  - f. Conceptual grading and storm water damage
  - g. Utilities
9. **Narrative.** A written statement shall state the following overall objectives of the proposed development:
- a. Review possible impacts on public facilities and services
  - b. Identify benefits to Royalton Township
  - c. A detailed description of the proposed uses, building and site improvements, and open spaces
  - d. Describe how the common open space will be owned and maintained
10. If the project is to be developed in phases, a description of the phasing process.
- B. Planning Commission Review.** The Planning Commission shall review the Sketch Plan as to proper form and content and particularly as to compliance with all applicable requirements of the Ordinance and consistency with the Township's Future Land Use Plan. The appropriateness and arrangement of the street and lot layout and improvements shall also be considered.
- C. Planning Commission Action.** The Site Condominium Proposal and Sketch Plan shall be reviewed in relation to the findings of the hearing, the recommendations of staff and any consultants, and the requirements and intent of this ordinance. Based on this review, the Planning Commission shall forward a recommendation to the Township Board of Trustees. [Amended 3/8/2010]
- D. Board of Trustees.** Upon receipt of the report and recommendations from the Planning Commission on the Site Condominium Sketch Plan, the Board of Trustees shall take action to approve, approve with conditions, or deny. The applicants shall be notified of the decision within several days of that decision.

**Section 24.05 Review of Preliminary Site Condominium Plan by Applicable Agencies**

- A. **Agency Review.** Prior to submittal of a project plan for Preliminary Site Condominium Plan review by the Planning Commission, the applicant shall prepare and submit a preliminary site condominium plan to the following agencies for their information, review, comment and/or approval, as applicable:
1. Berrien County Health Department
  2. Berrien County Road Commission
  3. Berrien County Drain Commission
  4. Michigan Department of Environmental Quality
  5. Michigan Department of Natural Resources
  6. The appropriate water and sewer authority(ies)
  7. Michigan Department of Transportation
  8. Royalton Township Fire Department
  9. Gas and electrical utility corporations serving the area.
  10. The applicable public school district affected by the project.
  11. Other state and county review and enforcement agencies having jurisdiction or permitting authority over all or part of the project.

**Section 24.06 Review of Preliminary Site Condominium Plan**

- A. **Application.** A fully completed application, payment of appropriate fees as established by the Township Board, and a Preliminary Site Condominium plan shall be submitted in accordance with Section 22.03, Site Plan Submittal Requirements. All material shall be submitted no less than 15 business days prior to the next regularly scheduled meeting at which review is sought.
- B. **Narrative.** A written statement shall state the following overall objectives of the proposed development:
1. Describe how the proposed project satisfies the requirements provided in Section 24.03



2. Review possible impacts on public facilities and services
3. Identify benefits to Royalton Township
4. Provide details and reasons for any proposed modifications or variances required from Zoning Ordinance provisions
5. Include a detailed description of the proposed uses, building and site improvements, phasing plans, and open spaces.

C. **Required Information.** The following written documentation and graphical information shall be included as part of any Preliminary Site Condominium application submitted for review and approval by the Planning Commission:

1. Documentation that the application satisfies the standards of Section 24.03, General Requirements.
2. Total site acreage and percent of total development area in various uses, including the open space.
4. Identification and descriptions of any proposed modifications from the standards of this Ordinance.
5. An overall Landscape Plan for the development site, meeting the standards of Chapter 20, and illustrating the landscaping planned for open space and common areas, the plans for existing landscaping, street trees, and landscaping concepts to be applied to the development sites within the Site Condominium Development.
6. Depiction of proposed development phases and estimated schedule for completion
7. Other data and graphics that will serve to further describe the proposed Site Condominium Development, and any additional information required by the Zoning Administrator or Planning Commission to ensure complete and efficient review of the proposed development.

D. **Contents of Preliminary Site Condominium Plan.** A preliminary site condominium plan shall include the documents and information required by Section 66 of the Condominium Act and shall also include the following as determined necessary by the Planning Commission for Preliminary Site Condominium Plan review. All maps shall be at scale of not more than 100 feet to 1 inch. The site condominium plan shall comply with the requirements for a site plan (Section 22.03) in addition to the following:

1. The name or title of the proposed project.

2. Legal description of the proposed project together with appropriate tax identification numbers.
3. The name, address and telephone number of the developer and property owner(s).
4. A small-scale vicinity map showing the location of the project within the Township, and the name and location of abutting subdivisions and site condominiums.
5. The location, dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the project.
6. Location and dimension of building sites, radii of all curves and location of all setback lines. Lot width shall be shown for each lot, at the required front setback line.
7. When any part of the project lies within or abuts a floodplain area, the floodplain area shall be clearly labeled on the plan with the words "floodplain area."
8. Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within 50 feet of the project.
9. Existing and proposed topographic elevations at 2 foot intervals on the site and to a distance of 50 feet outside the boundary lines of the project.
10. Location of the following: abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site; driveways opposite the site and driveways within 50 feet on either side of the project; and proposed driveway width, curb radii and design of deceleration lanes.
11. Additional street right of way or easements as required by the Berrien County Road Commission.
12. Proposed pedestrian ways and street lighting, if any.
13. Grading plan showing proposed grading to be completed on site in preparation of development.
14. Existing zoning and use of the proposed project.
15. The location of all existing off-site features within 50 feet affecting the project, such as railroads, buildings, trees, ditches, water courses and other physical features.

16. Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands located on the site.
17. A utility plan showing the location and size of all water and sewer lines, hydrants, equipment and facilities and easements to be granted to the appropriate municipality for installation, repair and maintenance of all utilities.
18. A storm drainage and a storm water management plan indicating the direction of storm water drainage and how storm water runoff will be handled, where storm water will be ultimately discharged such as a creek, stream, lake or wetland. The plan shall include all lines, laterals, swales, drains, basins and other facilities and easements to be granted to the appropriate public or private entity for inspection, repair and maintenance of all drainage facilities.
19. If the project is contiguous to other lands owned or under the control of the applicant, a map showing the proposed street layout and access for subsequent development.
20. A street construction and paving plan and a maintenance plan for all private streets within the project.
21. Profiles and details of road construction and paving areas.
22. Compliance with any recommendations of Sketch Plan approval or rationale as to why compliance is not possible.

**E. Impact Statement.**

1. The Planning Commission may require the applicant to prepare and submit, at the developer's cost, a developmental impact statement, describing in detail the effect and impact, whether adverse or otherwise, that the proposed development and land use will have, or may have, upon or with respect to any of the following:
  - a. A traffic study which will include the projected traffic trips generated from the completed site condominium, traffic counts, existing levels of service and a road capacity analysis for the roads serving the development.
  - b. An analysis of the impact the development will or may have on public safety and protection services, and the measures to be taken to address those impacts.
  - c. An analysis of the impact the development will or may have on existing water and sewer facilities, and the measures to be taken to address those impacts.

- d. A local school system impact statement. This statement shall address current school capacities as well as the projected impact that the development will have on the school systems.
  - e. A property value impact statement. This statement shall address the current property values in the surrounding areas and any potential impact that the proposed development will have or may have on these property values.
  - f. A listing of any historical structures or places and any archaeological sites or artifacts that may lie within the boundaries of the development.
2. The developmental impact statement shall include statements and comments from the following public agencies or officials, as applicable, concerning any aspects of the proposed land use within their respective responsibilities and jurisdictions:
- a. County Health Department
  - b. County Road Commission
  - c. County Drain Commissioner
  - d. County Planning Commission
  - e. Michigan Department of Natural Resources
  - f. Michigan Department of Environmental Quality
  - g. Michigan Department of Transportation
  - h. Intermediate School District and local Board(s) of Education
  - i. County Sheriffs Department
  - j. Local Fire Department
  - k. Other agencies as determined appropriate by the Planning Commission
  - l.
- F. **Technical Review.** Prior to the public hearing, the development application and development plan shall be distributed to appropriate Township officials and staff for review and comment. The Zoning Administrator may also submit the application and development plan to applicable outside agencies and designated Township consultants for review.
- G. **Public Hearing.** Upon receipt of a complete Preliminary Site Condominium submittal, a public hearing shall be scheduled and held before the Planning Commission in

accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and Section 23.03.C, Public Hearing Procedures.

**H. Planning Commission Review**

1. To determine the Preliminary Site Condominium approval, the Planning Commission must find that the proposed development meets the following standards:
  - a. Granting the request will result in a recognizable and substantial benefit to the ultimate users of the project and to the community.
  - b. The site condominium is designed to ensure that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development.
  - c. The site condominium is designed to protect the public health, safety, and welfare of the individuals in the development and those immediately adjacent, and the community as a whole.
  - d. The site condominium is designed and laid out to preserve and protect natural resources and natural features to the fullest extent possible.
  - e. The site condominium is designed to promote the use of land in a socially and economically desirable manner.
  - f. The site condominium is compatible with the Township Development Plan objectives for the area and consistent with the intent and purpose of this Ordinance as presented in Section 24.01.
2. The Preliminary Site Condominium proposal and site plan shall be reviewed in relation to applicable standards and regulations as well as its consistency with the intent and spirit of the Ordinance and Development Plan concept. The Preliminary Site Condominium Plan shall also be reviewed in terms of its consistency with the Site Condominium Sketch Plan and the response to any conditions of approval of the Sketch Plan.
3. Based on the preliminary plan review, comments received during the public hearing, and any reports and reviews from consultants, staff, and other reviewing agencies, the Planning Commission shall take action to approve, approve with conditions, or deny. The applicants shall be notified of the decision within several days of that decision.

- I. Effect of Action of the Preliminary Site Condominium Plan.** Preliminary Site Condominium Plan approval is intended to provide direction for preparation of the Final Site Condominium Plan, but shall not assure approval of the Final Site Condominium Plan.

1. Preliminary Site Condominium Plan approval shall expire in 1 year after the date of approval, unless the Final Site Condominium Plan has been submitted to the Planning Commission for review. Upon written request, the Preliminary Site Condominium Plan approval may be extended for 1 year by the Planning Commission upon determining that site conditions have not changed in a way that would effect the character, design, or use of the site, that the applicant has made a reasonable attempt to satisfy the timing standards, and that the applicant is likely to submit a Final Site Condominium application within one year. If the Planning Commission denies the extension, the applicant may pursue development or use of the site under conventional zoning standards, or may submit a new Preliminary Site Condominium Plan for further consideration.
2. Approval of a final preliminary site condominium plan by the Planning Commission shall serve as conditional authorization to commence with the construction of required improvements to the land in accordance with the approved preliminary site condominium plans and approved construction plans. Preliminary site condominium plan approval does not authorize the construction of buildings or uses on individual building sites.
3. No site improvements or changes shall be made on the property in connection with a proposed site condominium project except in compliance with a preliminary site condominium plan as approved by the Planning Commission, including any conditions of approval. This provision shall apply to all phases of a multi-phased development project that have only received approval as part of an overall project site plan and which have not specifically been granted final preliminary approval.

#### **Section 24.07 Final Site Condominium Review Procedures**

- A. **Application.** Following approval of the Preliminary Site Condominium Plan, the applicant shall complete and submit the Final Site Condominium Plan to the Planning Commission for approval, including the required application form and fees, as established by the Township Board. Application materials shall be submitted no less than 15 business days prior to the next regular scheduled meeting at which review is sought. This plan shall contain at a minimum the following information:
1. All information required under Preliminary Site Condominium approval.
  2. Two (2) copies of as-built plans of all required private and public improvements which shall be reviewed by the Township Engineer for compliance with applicable Township ordinances.
  3. Floor plans and elevation drawings for all non-residential buildings.

4. Landscape plan.
5. The location and type of any hazardous materials or landscape maintenance chemicals to be stored on the site.
6. A copy of all final agreements and the Master Deed which is to be recorded with the Berrien County Register of Deeds which shall be reviewed by the Planning Commission for compliance with the final Preliminary Site Condominium Plan as approved by the Planning Commission in Section 24.06.
7. Projected time for completion of the entire project.
8. Proposed phasing, if any, and the projected time for completion of each phase.
9. Detailed plans addressing any special concerns or requests of the Township during the Preliminary Site Condominium Plan approval phase.
10. Any additional information necessary or requested by the Township to show consistency with the Preliminary Site Condominium Plan.
11. Letters of approval from all applicable agencies or utilities listed in Section 24.05 stating that improvements have been properly installed and inspected, and inspection fees paid, or that performance guarantees or other similar surety have been submitted for uncompleted improvements.

**B. Planning Commission Action.** The Planning Commission shall review the Final Site Condominium Plan, together with any reports and recommendations from staff, consultants, and other reviewing agencies. The Planning Commission shall address whether the Final Site Condominium Plan conforms to the following objectives and requirements, and shall then report its findings and recommendations to the Township Board:

1. The Final Site Condominium Plan is consistent with the approved Preliminary Site Condominium Plan, any conditions of approval, and the land use goals and objectives of the Development Plan.
2. All conditions of Preliminary Site Condominium Plan approval have been addressed.
3. All applicable engineering requirements have been satisfied, and the applicant has obtained all necessary outside agency permits or approvals.

**C. Township Board Action.** Upon receipt of the report and recommendation from the Planning Commission, the Township Board shall review all findings and take action to approve, approve with conditions or deny the Final Site Condominium Plan, and shall set forth the reasons for their action.

Approval of the Final Site Condominium Plan by the Township Board shall allow the applicant to submit construction and building plans for the project to the Building Inspector for review. All construction and building plans and permits shall conform to the approved Final Site Condominium Plan, and no development may take place on the site, nor may any use thereof be made, except in accordance with the approved Final Site Condominium Plan.

- D. **Expiration.** An approved Final Site Condominium Plan shall expire 365 days after the date of approval of the Final Site Condominium Plan, unless building permits have been issued or construction has commenced on the project or on the first phase of the project. If such construction has commenced, Final Plan approval shall continue for a period of five (5) years from the date thereof. For significant projects, this period may be extended. This should be done during Preliminary Site Condominium review and the agreed upon extension approval by the Planning Commission, however it may occur at any point prior to expiration. Any extension shall be tied to the phasing plan and any necessary amendments demonstrating when certain phases are to be completed and others are to commence. If construction lapses for more than 180 continuous days during the process, approval shall immediately expire. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant an extension of up to 180 days, provided that site conditions have not changed in a way that would affect the character, design or use of the site.
- E. **Occupancy.** The Township Board shall require that all required improvements be constructed and completed prior to the issuance of any occupancy permits or occupancy of any buildings. The Board may grant an occupancy permit or permission to occupy buildings before all required improvements are completed if:
1. The applicant provides a security, the form and substance of which shall comply with paragraph F below and be acceptable to the Township Board, in an amount equal to the cost of the improvements yet to be completed;
  2. The improvements will be completed within six (6) months from the date the permit is issued; and
  3. The health, safety, and welfare of the residents or occupants of the Site Condominium will not be impaired by the delay in completion of the improvements.
- F. **Security for Completion.** As a condition of final site condominium plan approval and in lieu of completion of some or all required improvements, the Township Board may give final site condominium plan approval conditioned upon the developer providing a financial guaranty for performance as provided in this section.
1. Security shall be in an amount equal to the total estimated cost for completion of the improvement, including reasonable contingencies. Security shall not be



- required for an improvement for which security has been furnished to another governmental agency.
2. Security shall remain in force for a time to be specified by the Township Board.
  3. Security shall be in the form of an irrevocable bank letter of credit issued by a bank, in a form satisfactory to the Township, or in the form of cash escrow or certified check. A performance bond in a form satisfactory to the Township, from a surety company authorized to do business in the State of Michigan and acceptable to the Township, may be substituted in lieu of such security only if the applicant can satisfy the Township that an irrevocable letter of credit, cash escrow or certified check cannot reasonably be made available.
  4. The developer may request periodic reductions in the amount of security as public improvements are completed. Township Engineer may approve such reductions, to an amount estimated to be equal to the remaining cost of improvements, plus a reasonable contingency.
  5. Upon completion of all required improvements, one complete copy of as-built engineering plans for all required public improvements and utilities shall be filed with the Township Clerk within 6 months of completion of required improvements.

#### **Section 24.08 Expandable or Convertible Condominium Projects**

Approval of a final site condominium plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards and requirements of this Chapter.

#### **Section 24.09 Review and Approval of Changes to Approved Site Condominium Projects**

Changes to an approved Final Site Condominium plan may occur only under the following circumstances:

- A. **Notification.** A developer or property owner who has been granted final Site Condominium approval by the Township Board shall notify the Township Zoning Administrator, Supervisor, or Manager if they desire to change an approved final development plan.
- B. **Minor Changes.** The Zoning Administrator may approve minor changes to a final site condominium plan provided that the proposed revision does not alter the basic design or conditions of the plan. "Minor changes" are limited to the following:

1. For residential buildings, the size of structures may be reduced or increased by 5 percent provided that the overall number or density of units does not increase.
  2. Square footage of nonresidential buildings may be decreased or increased by up to 5 percent (or 5,000 square feet, whichever is less).
  3. The relocation of building footprints by not more than 5 feet, unless a specific setback or separation distance is imposed as a condition of approval.
  4. An increase in area of the site designated as “not to be disturbed”.
  5. Landscape materials may be replaced by similar plant materials on a one-to-one basis or greater.
  6. A revision in floor plans, if consistent with the character of the use.
  7. Improvements made to access and circulation systems, such as the addition of acceleration/deceleration lanes, boulevards, curbing, pedestrian and/or bicycle paths.
  8. Changes made to exterior materials, if the changes provide for the use of materials of equal or higher quality than those originally approved, as determined by the Zoning Administrator.
  9. A reduction in the size of signs, or an increase in sign setbacks.
  10. The internal rearrangement of parking spaces in a parking lot, if the total number of parking spaces provided is not reduced and circulation hazards or congestion are not created by the redesign.
  11. A change in the name of the development.
  12. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the site condominium which are not significant in relation to the development and would not have any significant adverse effect on adjacent or nearby lands or the public health, safety, or welfare.
- C. **Major Changes.** The Zoning Administrator may refer any decision regarding any proposed change to the Final Site Condominium plan to the Planning Commission for review and approval. If the Planning Commission determines that the modifications significantly alter the intent of the original concept of the project, a new Final Site Condominium submittal, illustrating the modification and satisfying the requirements of Section 24.07, shall be submitted for review by the Planning Commission and Township Board, and the process for Final Site Condominium approvals shall be replicated.

- D. **Preliminary Plan Amendments.** If the proposed change is to the Preliminary Site Condominium Plan, the same process and criteria listed above shall be used to determine if the amendment is major or minor. If it is a major amendment, the plan will have to be resubmitted for Preliminary Site Condominium Plan review.

#### **Section 24.10 Incorporation of Approved Provisions in Master Deed**

All provisions of a preliminary site condominium plan which are approved by the Township Board as provided by this Chapter shall be incorporated by reference in the master deed for the site condominium project. Further, all major changes to a project shall be incorporated by reference in the master deed. A copy of the master deed as filed with the Berrien County Register of Deeds for recording shall be provided to the Township within 10 days after filing the plan with the County.

#### **Section 24.11 Exemption of Existing Project**

- A. This Chapter shall not apply to a site condominium project, which is determined by the Township Board to have met the following conditions as of the effective date of this Chapter (an “existing” project):
1. A condominium master deed was recorded for the project with the Berrien County Register of Deeds in accordance with the requirements of the Condominium Act and other applicable laws and ordinances, and
  2. The project fully complied with all other applicable requirements under Township ordinances in effect on the date when the condominium master deed was recorded.
- B. The exemption provided by this Section shall apply only to an existing project as described in the condominium master deed recorded for the project on the effective date of this Chapter, including any subsequent change which would constitute (i) an exempt change, whether or not the Condominium Act would require an amendment to the master deed as a result of the change; or (ii) a minor change for which the Condominium Act would not require an amendment of the master deed. However, this exemption shall not apply to any subsequent expansion, conversion or platting of the project, or subsequent major change to the project, which shall be fully subject to the applicable review and approval requirements as provided by this Chapter.

## CHAPTER 25 ADMINISTRATION AND ZONING BOARD OF APPEALS

[Amended 3/8/2010]

### Section 25.01 Purpose

The Township Supervisor, or his/her duly authorized representative as specified in this Chapter, is hereby charged with the duty of enforcing the provisions of this Ordinance. Furthermore, administrative responsibilities of this Ordinance are vested in the following Township entities: Township Board, Planning Commission, Zoning Board of Appeals, and the Zoning Administrator, and their respective duly authorized assistants or representatives. The purpose of this Chapter is to set forth the scope of authority and responsibility of these entities or positions.

### Section 25.02 Township Board

The Township Board shall have the following responsibilities and authority pursuant to this Ordinance.

- A. **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes expressed in the Preamble to this Ordinance, and pursuant to the authority conferred by Michigan Public Act 110 of 2006, as amended, the Township Board shall have the authority to adopt this Ordinance, any amendments to this Ordinance which have been previously considered by the Planning Commission or at a hearing, or as decreed by a court of competent jurisdiction.
- B. **Setting of Fees.** The Township Board shall, by resolution, have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Township Board to set a fee for a specific permit or application, the Township Supervisor shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
- C. **Approval of Planning Commission Members.** In accordance with Michigan Public Act 110 of 2006, as amended, members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board.
- D. **Approval of ZBA Members.** The Township Board shall also approve the appointments of all Zoning Board of Appeals members made by the Township Supervisor.

**Section 25.03 Township Planning Commission**

The Township Planning Commission shall have the following responsibilities and authority pursuant to this Ordinance.

- A. **Creation.** The Township Planning Commission is created pursuant to the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended. In accordance with Section 83 of Act 33, the Planning Commission shall have all the powers and duties provided for zoning boards created pursuant to the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended.
- B. **Composition and Appointments.** Members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board of Trustees. The qualifications of members, the term of each member, filling of vacancies, removal of members, compensation of members, and operation of the Planning Commission shall be in accordance with Act 33 of 2008, as amended, and Township Ordinances. All appointed members of the Commission may be compensated at a rate to be determined by resolution of the Township Board.
- C. **Organization, Meetings, Records and Rules.** The Planning Commission shall elect a Chair, Vice-Chair and Secretary from among the appointed members, and may create and fill such other offices as it may determine necessary. The term of the Chair shall be one (1) year, with eligibility for re-election.

In accordance with Section 21 of Act 33, the Planning Commission shall, by resolution, determine the time and place of meetings. A special meeting may be called by the chairperson or by two (2) members upon written request to the Secretary. The Planning Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

- D. **Powers and Duties.** The Planning Commission shall discharge the following duties pursuant to this Ordinance:
  - 1. **Formulation of Zoning Ordinance and Amendments.** The Planning Commission shall be responsible for formulation of this Zoning Ordinance, review of amendments to this Ordinance, and reporting its findings and recommendations concerning this Ordinance or amendments to the Township Board of Trustees.
  - 2. **Site Plan Review.** The Planning Commission shall be responsible for review of applications for site plan approval in accordance with Chapter 22 (Site Plan Review and Procedure). The Planning Commission shall be responsible for granting approval, approval subject with revisions, or denial of a site plan.

3. **Special Land Use Permit Review.** The Planning Commission shall be responsible for review of all applications for special land use permit approval in accordance with Chapter 23 (Special Land Use Review and Approval). The Planning Commission shall be responsible for granting approval, approval subject with revisions, or denial of special use permit requests.
4. **Planned Unit Development Review.** The Planning Commission shall be responsible for review of all applications for planned development in accordance with Chapter 21 (Planned Unit Developments). In addition, similar to rezoning, the establishment of a PUD District shall commence with the review and recommendation of the Planning Commission. The Planning Commission shall be responsible for making a recommendation to the Township Board of Trustees to grant approval, approval with conditions, or denial of a Planned Unit Development proposal.
5. **Formulation of a Royalton Township Development Plan.** The Planning Commission shall be responsible for formulation and adoption of a master plan (i.e., the Royalton Township Development Plan) as a guide for the development of the Township, in accordance with Michigan Public Act 33 of 2008, as amended.
6. **Review of Matters Referred by the Township Board.** The Planning Commission shall be responsible for review of plats or other matters relating to land development referred to it by the Township Board of Trustees. The Planning Commission shall recommend appropriate regulations and action on such matters.
7. **Report on Operation of the Zoning Ordinance and Planning Activities.** In accordance with Section 308 of Michigan Public Act 110 of 2006, as amended, and Section 19 of Public Act 33 of 2008, as amended, the Planning Commission shall annually prepare for the Township Board of Trustees a report on the operations of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the Ordinance, as well as a report on its operations and the status of planning activities, including recommendations regarding actions by the Township Board related to planning and development.

#### **Section 25.04 Zoning Board of Appeals**

- A. **Purpose.** There is hereby established a Zoning Board of Appeals (herein referred to as the “ZBA”), 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.

**B. Membership.**

1. The ZBA shall set upon questions arising under this Ordinance. In this capacity, it shall perform its duties and exercise its power as provided in Section 603 of P.A. 110 of 2006, as amended.
2. The ZBA shall consist of five (5) members who shall be appointed by the Township Board in accordance with Section 601 of Michigan Public Act 110 of 2006, as amended, as follows:
  - a. One (1) member shall be a member of the Planning Commission.
  - b. One (1) member shall be a member of the Township Board.
  - c. The remaining members shall be electors of the Township residing outside of incorporated cities and villages, and shall be representative of the population distribution and of the various interests present in the Township.
  - d. The Township Board may appoint two (2) alternate members to the Zoning Board of Appeals. An alternate member may be called to serve in the absence of a regular member if a regular member is unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
3. No employee or contractor of the Township may be a member or employee of the ZBA. No elected officer of the Township may serve as chairperson of the ZBA.
4. The qualifications of regular and alternate members, the term of each regular and alternate member, filling of vacancies, compensation of all members, and operation of the ZBA shall be in accordance with Public Act 110 of 2006, as amended.

**C. General Rules and Procedures.** All meetings shall be held at the call of the chairperson and at such times as such body may determine.

1. All hearings conducted shall be open to the public. The ZBA shall keep minutes of its proceedings showing the vote of each member in question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions in the office of the Clerk, and shall be a public record.

2. The ZBA shall not conduct business unless a majority of the members are present. The concurring vote of a majority of the full membership of the ZBA shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance.
3. The ZBA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the product of books, papers files, and other evidence pertinent to the matters before it.
4. The ZBA shall elect a Chair, Vice-Chair and Secretary from its membership.
5. The ZBA may distribute the application materials to the Zoning Administrator or other designated Township consultant or representative to review the application and provide a report to the ZBA 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 Royalton Township Development Plan.

#### D. Powers

1. **Variances.** The ZBA shall have the power to authorize, upon appeal, specific variances from dimensional requirements of the Zoning Ordinance regulations that would result in exceptional practical difficulties to the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose of the Zoning Ordinance.

Variances shall be granted only in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the provisions of this Article. The ZBA shall state the grounds upon which it justifies the granting or denying of a variance.

The ZBA may grant a requested variance only upon finding that practical difficulties exist and that the need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. In determining whether practical difficulties exist the ZBA shall consider the following factors:

- a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome.



- b. Allowing the variance will result in substantial justice being done; considering the public benefits intended to be secured by this article, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.
  - c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
  - d. The alleged practical difficulties include substantially more than mere inconvenience or inability to attain a higher financial return.
  - e. The proposed and resulted need for the variance has not been self-created by the applicant.
  - f. The variance is the minimum necessary to permit a reasonable use of the land, building, or structure and does not confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
2. **Prohibited Variances.** The following variances shall be prohibited:
- a. A variance proposed to release an applicant from a condition or any part of a condition attached to a special use approved by the Township.
  - b. Use variances.
3. **Appeals of Administrative Decisions.** Unless otherwise provided herein, the ZBA 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 ZBA by the person, firm or corporation aggrieved, or by an officer, department, or board 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 21 days. An appeal shall stay all administrative or enforcement proceedings associated with the appeal, unless the Zoning Administrator certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, a stay 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.

4. **Interpretations.**

- a. **Zoning Map.** 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 ZBA shall have the power to interpret the Zoning Map in such a way as to carry out the intents and purposes of the Royalton Township Zoning Ordinance and the Royalton Township Development Plan.
- b. **Zoning Ordinance Provisions.** Unless otherwise provided, the ZBA 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 and the Royalton Township Development Plan.

E. **Application.** Applications to the ZBA shall be filed with the Township, and a fee established by Township Board of Trustees shall be paid at the time the application is filed. Applications shall be accompanied by the following information, where applicable:

1. Applicant's name, address, telephone and facsimile numbers.
2. The address, location and tax identification number for each parcel involved in the request.
3. Zoning classification of the subject parcel(s) and all abutting parcels.
4. 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. Topographic elevations, drawn at two-foot intervals, may be required by the ZBA or the Zoning Administrator if pertinent and necessary for the review of the application.
5. A stamped survey of the property, completed by a certified professional in the State of Michigan including building location, drawn to scale, and indicating dimensions of the property. The Township may waive this requirement at any time.
6. A letter from the applicant summarizing the request, and stating the reasons for the request and a response to the criteria listed in paragraph D.1 as to why the variance is necessary.
7. The appropriate fee as set by the Township Board.

8. Any additional information deemed necessary by the ZBA to make a determination on the issue in question.
9. The application shall grant a right of entry onto the subject property to the Zoning Administrator, members of the ZBA and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.

F. **Public Hearing and Notice Requirements.** The ZBA shall select a reasonable time and place for the hearing of the appeal. A notice must be published in a newspaper of general circulation in the Township not less than 15 days prior to said hearing date. A notice must also be sent by mail or personally delivered not less than 15 days prior to said hearing date to the following: the parties involved in the appeal application and to persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Royalton Township. If the name of the occupant is not known, the term "occupant" may be used. Notification need not be given to more than one occupant of a structure, except if the structure contains more than one (1) dwelling, notice shall be given to each unit. If a structure contains more than four (4) dwelling units, notice may be given to the owner or manager of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice shall describe the request; indicate the property involved in the request; the address of the property; state when, where the request will be considered and indicate when and where written comments will be received concerning the request. If there is not an address for the property involved in the request, other means of identification may be used.

Public notice shall also be given in the manner required by the Open Meetings Act, Public Act 267 of 1976. The Township Clerk shall maintain an affidavit of notice's publication. An affidavit of mailing or personal delivery shall be filed with the Zoning Board of Appeals. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney

G. **Conditions.** The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeals, interpretation, or variance request. The conditions may include requirements necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable or accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

1. Be designed to protect natural resources, the health, safety, welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents or landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Be related to the valid exercise of police power, and purposes that are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

#### **H. Rehearing**

1. The decision of the ZBA shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to the Berrien County Trial Court – Civil Division. Appeals of a decision by the ZBA to Berrien County Trial Court – Civil Division must be filed within twenty-one (21) days after the ZBA certifies its decision in writing or within thirty (30) days after the ZBA approves the minutes of its decision, whichever occurs first.
2. The ZBA is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to vitiate or materially affect the reason which produced and supported it, and no vested rights have intervened.

#### **Section 25.05 Zoning Administrator**

A. **Responsibilities of the Zoning Administrator.** The Zoning Administrator shall be appointed by the Township Board and shall serve under the direction of the Township Supervisor. The Township Zoning Administrator shall have, at minimum, the following responsibilities:

1. To exercise any and all authority specifically granted, or necessarily implied, to the Zoning Administrator in accordance with State law;
2. To exercise any and all administrative responsibilities that are specifically required or necessarily implied and that are not otherwise delegated to the Township Board, the Planning Commission, or to the ZBA;
3. To review and decide upon requests for Zoning Permits in accordance with the provisions of this Chapter;

4. Provide citizens and public officials with information relative to this Ordinance and related matters.
5. Assist applicants in determining the appropriate forms and procedures related to site plan review, zoning, and other zoning matters.
6. Review all applications for site plan review, special land use review, planned development proposals, and take any action required as outlined in this ordinance.
7. Forward to the Planning Commission, ZBA, and Township Board, all applications, materials related to applications, recommendations if necessary, and other information required for that bodies' review.
8. Maintain up-to-date Zoning Map, Zoning Ordinance text, and office records by recording all amendments and filing all official minutes and other documents in an orderly fashion.
9. Maintain a record of all nonconforming uses, structures, and lots existing on the effective date of this Ordinance, and update this record as conditions affecting the nonconforming status of such uses or structures changes.
10. Place all notices of meetings of Planning Commission, ZBA, hearings, etc. in display case in front of Royalton Township Hall, publish the notice in a newspaper and mail or personally deliver notices as required by this Ordinance and the Michigan Zoning Enabling Act (P.A. 110 of 2006).
11. To investigate and report upon violations of this Ordinance, regardless of whether or not a citizen or resident of the Township has made or filed a complaint;
12. To order, in writing, the remedying of any violation of this Ordinance within a reasonable time limit;
13. To institute legal proceedings to enforce compliance with this Ordinance, in accordance with the provisions of this Chapter;
14. Report to the Royalton Township Board of Trustees at least once each month as to permits and certificates issues, orders promulgated, all violations and all other matters requiring prosecution or legal action.

**Section 25.06 Zoning Permits**

**A. Permit Required**

1. The following actions shall not commence until a zoning permit has been issued by the Township Zoning Administrator:
  - a. The excavation, alteration, or filling of land.
  - b. The new use or change in use of land, except for the conduct of agricultural activity.
  - c. The new use or change in use of an existing building or structure.
  - d. Construction or expansion of a structure, including parking lots.
2. Except upon a written order of the Township Zoning Board of Appeals, no zoning permit shall be issued for any building or structure where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this Ordinance.
3. No building permit shall be issued until the Zoning Administrator has determined that the building, structure, or use of land, if constructed or used as planned and proposed, will conform to the provisions of this Ordinance, as evidenced by issuance of a zoning permit.

**B. Application Requirements.** Application for a zoning permit shall be submitted at least 10 days prior to a contemplated new use or change of use of a building or land. Application for a zoning permit shall be made in writing to the Zoning Administrator, signed by the person, firm, co-partnership, or corporation requesting the same or by the duly authorized agent of such person, firm, co-partnership or corporation. For those uses requiring a site plan, the Zoning Administrator shall not issue a zoning permit until the provisions of Chapter 22, have been satisfied.

For those uses not requiring a site plan, there shall be submitted to the Zoning Administrator with all applications for zoning permits, two (2) copies of a plot plan, drawn to scale showing:

1. The location, shape, area and dimensions for the lot, lots, or acreage.
2. The location of the proposed construction, alteration, or repair upon the lot, lots, or acreage affected, along with existing structures, wells, and disposal systems. All wells and sanitary septic systems must have County Health Department approval.

3. The dimensions, height, bulk of structures, and setback lines and a finished building grade drawing of existing and proposed structures.
  4. The nature of the proposed construction, alteration, or repair and the intended uses.
  5. The present use being made of any existing structure affected and any proposed change in the use thereof.
  6. The approximate boundary of any water body or Michigan Department of Natural Resources and Environment (MDNRE) regulated wetland. An MDNRE permit shall be required for activities in a regulated wetland or an inland lake or stream. A copy of any required MDNRE permits shall be submitted with the zoning permit application.
  7. Any other information deemed necessary by the Zoning Administrator to determine compliance with this Ordinance and to provide for its enforcement.
- C. **Evidence of Ownership.** All applicants for zoning permits shall have available for the Zoning Administrator's inspection, evidence of ownership of all property affected by the permit and shall submit the same upon the request of the Zoning Administrator.
- D. **Contents and Voiding of Permit.** Any zoning permit issued by the Zoning Administrator shall state that the proposed use and any structure or building embraced in the use shall conform with the provisions of this Ordinance and shall further state any special limiting conditions of such use. Any zoning permit granted under this section shall be null and void unless the development proposed shall have its first zoning inspection within one (1) year from the date of the granting of the permit. Permits may be renewed for an additional year upon review of the facts and conditions of delay and payment of one half the original permit fee. The Zoning Administrator shall give notice by certified mail to the holder of a permit that is liable for voiding action before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated in said permit. The Zoning Administrator may suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other Ordinances or regulations of the Township. The permit may also be revoked in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance.
- E. **Application Fee.** A fee in accordance with the duly adopted schedule of fees shall be paid to the Zoning Administrator at the time of filing the application for zoning permit. The purpose of the fee is to cover any necessary administrative and inspection costs incurred in connection with the application.

**F. Inspections.**

1. The construction or usage covered by any zoning permit shall be subject to the inspection by the Zoning Administrator to ensure compliance with the provisions of this Ordinance and the approved plot or site plan.
2. It shall be the duty of the holder of every permit to notify the Zoning Administrator when the construction or usage is ready for inspection. Failure to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed or occupancy may be permitted.
3. Inspections shall be made by the Zoning Administrator at the following intervals:
  - a. When the building foundation forms are in place and/or poles are set. The Administrator shall also inspect the staking of lot corners at this time.
  - b. Upon completion of the work authorized by the permit.
  - c. Where applicable and when practical, inspections made by the Zoning Administrator may be made concurrently with inspections made by the Building Official.
  - d. A temporary zoning permit compliance permit may be issued for a portion of a building, structure or site prior to occupancy of the entire building, structure or site, provided that such portion of the building, structure, or site is in conformity with the provisions of this Ordinance and the Building Code, and provided further that no threat to public safety exists. The Zoning Administrator may require that a performance guarantee be provided in accordance with Section 25.07 as a condition of obtaining a temporary permit. The date of expiration shall be indicated on the temporary permit; failure to obtain a final permit within the specified time shall constitute a violation of this Ordinance, subject to the penalties set forth in Chapter 26.

**G. Availability of Record.** The Zoning Administrator shall keep a record of land use permits on file in the Township Office.

**H. Issuance of a Permit.** Within 15 days after the receipt of any complete application, the Zoning Administrator shall either issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance; or deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case the permit or the written reason(s) or causes(s) for denial shall be transmitted to the owner or his agent.



## **CHAPTER 26**

### **ENFORCEMENT, PENALTIES, AND OTHER REMEDIES**

#### **Section 26.01 Enforcement**

The Zoning Administrator shall be primarily responsible for the enforcement of the provisions of this Ordinance. However, the Township Board, the Planning Commission and the Zoning Board of Appeals, in addition to the Zoning Administrator, may institute the legal remedies provided for in this Section to bring about compliance with this Ordinance.

#### **Section 26.02 Public Nuisance**

Any use or development of land, dwellings, buildings, or other structures in violation of any of the provisions of this Ordinance is hereby declared to be a public nuisance per se, subject to imposition of the Penalties provided in Section 26.03. In addition to such Penalties, the abatement of a public nuisance per se may be pursued in any court of competent jurisdiction as provided in Section 26.05.

#### **Section 26.03 Penalties**

- A. **Fines, compliance and nuisance abatement.** The violation of any provision of this Zoning Ordinance by any firm, corporation, person, or persons, or anyone acting on behalf of said person, persons, firm, or corporation, is a municipal civil infraction that shall result in the assessment of a fine of not less than \$100.00 and not more than \$500.00 per infraction, plus costs and other sanctions ordered by the court. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.
- C. The owner of any building, structure, or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines herein provided.

#### **Section 26.04 Procedures for Addressing Violations**

The following procedures shall be followed in addressing potential violations. The Township Board, the Zoning Board of Appeals, Township Attorney, Berrien County Prosecuting Attorney, or any owners or occupants of any real estate within the Township may institute injunction,

mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance:

**A. Report of Violation**

Any and all buildings or land use activities considered possible violations shall be reported to the Zoning Administrator or his/her Township appointed delegate.

**B. Investigation**

The Zoning Administrator shall inspect each alleged violation. If a violation has occurred, the Zoning Administrator shall issue an order to correct the violation to the offender within 10 days of the inspection. A maximum of three (3) notices may be distributed; 10 days apart.

**C. Remedial Plan**

All violation notices shall be responded to by submitting a remedial plan and timetable for correction of the violation to the Zoning Administrator within 10 days after the notice is issued. If the Zoning Administrator rejects the remedial plan or the timetable, revisions must be submitted to the Zoning Administrator within five (5) days of notification of the rejection.

**D. Prosecution**

A remedial plan and timetable not approved or not submitted within the required timetable shall be reported to the Township Board, who may initiate prosecution proceedings.

**Section 26.05 Authority to Pursue Court Action**

The Township Board or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain and to prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute suit or join the Township Board in such a suit to abate the violation.

**Section 26.06 Other Remedies**

The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Township to initiate proceeding in an appropriate

court of law to restrain or prevent any non-compliance with any provisions of this Ordinance, or to correct, remedy, or abate such noncompliance.

**Section 26.07      Rights and Remedies Preserved**

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 prevent any further prosecution of violations of this Ordinance.

## **CHAPTER 27**

# **AMENDMENTS TO THE ZONING ORDINANCE AND ZONING MAP**

[Amended 3/8/2010]

### **Section 27.01 Purpose**

For the purpose of establishing and maintaining sound, stable, and desirable development within the territorial limits of the Township, this Ordinance shall not be amended except to correct an error in the Ordinance, or because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing District, or to change the regulations and restrictions thereof. Any person, firm, or corporation may initiate such amendment to this Ordinance by filing an application with the Zoning Administrator, by motion of the Township Board, or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this Ordinance shall be in accordance with Act 110 of the Public Acts of 2006, as amended.

### **Section 27.02 Amendment Procedure**

- A. **Application.** Application for an Amendment to the Zoning Ordinance shall be made to the Planning Commission by filing of not less than 10 copies of an application form with the Township Zoning Administrator. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township Board at the time the application is made. The information required below shall be considered a minimum and the Zoning Administrator, in consultation with the Chairman of the Planning Commission, may require additional information that they deem necessary in order for the Planning Commission to make a fully informed decision on the application. The application shall include the following information:
1. The applicant's name, address, and telephone and facsimile numbers.
  2. If the amendment is for a rezoning and is initiated by a party other than the Township Board or Planning Commission, then the application shall include the address, parcel number and current zoning district classification of the subject property; it shall be executed by the owner(s) of the property; and it shall grant a right of entry onto the subject property to the Zoning Administrator, members of the Planning Commission, Township Board, and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.
  3. A narrative description of the nature and effect of the proposed amendment.

4. The appropriate fee as set by the Township Board.
  5. If the proposed amendment would require a change in the Zoning Districts Map, a complete legal description of the entire land area effected, the present zoning classification of the land, and the names and addresses of the owners of all land. The Planning Commission may require a current survey of the subject property.
  6. In any case where a requested change in zoning district classification is for only a portion of a lot, the Planning Commission may require that a current survey be submitted and that the boundary line between all zoning district classifications on the subject property be indicated and be physically monumented in the field by the setting of an iron pipe or a concrete marker.
  7. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
  8. If the proposed amendment is in response to changed or changing conditions in the area or in the Township, then the application shall describe those changed or changing conditions that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
  9. All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.
- B. **Technical Review.** The application shall be filed with the Zoning Administrator, who shall review the application within 15 days of its receipt. In reviewing the application for completeness, the Zoning Administrator may consult with the Chairman of the Planning Commission, the Township Supervisor, the Township Engineer, and any other parties whose input the Zoning Administrator deems necessary for the proper review of the application. If the Zoning Administrator finds that the application is not complete, he shall return the application with a written explanation of the additional information that is required. Once the application is found to be complete, the Zoning Administrator shall forward the application to the Secretary of the Planning Commission who shall schedule the application for a Public Hearing at a regular meeting of the Planning Commission.
- C. **Public Hearing and Notice Requirements.** Upon receipt of a complete application, the Secretary of the Planning Commission shall schedule a public hearing on the request. Notice of the public hearing for an amendment to this Ordinance shall be given by publishing said notice not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the Township. The Secretary shall also give a written notice of the public hearing to the owner(s) of the property in question, and shall provide written notice to all persons who own and all persons who occupy real property within 300 feet of the property in question, whether the property is located within Royalton Township or not. The notice shall be delivered personally or by mail to the respective

owners and occupants at the address given in the last assessment roll not less than fifteen (15) days before the public hearing. If the tenant's name is not known, the term "occupant" may be used. Notification need not be given to more than one occupant of a structure, except if the structure contains more than one (1) dwelling, notice shall be given to each unit. If a structure contains more than four (4) dwelling units, notice may be given to the owner or manager of the structure, who shall be requested to post the notice at the primary entrance to the structure.

If the application is for an amendment to the Zoning Map and involves 11 or more parcels, the distribution to adjacent owners and occupants is not necessary.

The notice shall describe the nature of the request and indicate the subject property involved in the request including all street addresses. If no street addresses are available, then another means of identifying the subject property can be used. If eleven (11) or more properties are proposed for rezoning, street addresses do not have to be included in the notice as long as an accurate method of identifying the property proposed for rezoning is used. The notice shall also state the date, time and place for the public hearing and indicate when and where written comments concerning the proposed rezoning will be received.

Public notice shall also be given in the manner required by the Open Meetings Act, Public Act 267 of 1976. The Township Clerk shall maintain an affidavit of notice's publication. An affidavit of mailing or personal delivery shall be filed with the Planning Commission before the hearing. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney

- D. **Planning Commission consideration of the proposed amendment.** 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 factors relevant to the petition, including the appropriate criteria listed in this Section, and shall report its findings and recommendation to the Township Board.
- E. **Township Board action on the proposed amendment.** Upon receipt of the report and recommendation from the Planning Commission, the Township Board shall consider the proposed amendment. If determined to be necessary, the Township Board may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official Zoning Map, the Township Board shall approve or deny the amendment, based upon its consideration of the criteria contained in Section 27.03.
- F. **Effective Date.** No amendment approved by the Township Board shall become effective until seven (7) days after Notice of Ordinance Adoption is published in accordance with Section 401 of Public Act 110 of 2006, as amended.
- G. **Protests.** Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either 30 days after publication, if a petition is not filed or the

petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed, in accordance with Section 402 of Public Act 110 of 2006, as amended.

- H. Any amendment prepared for the purpose of conforming to a provision or a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring said amendment to any other board or agency.

**Section 27.03 Criteria for Amendment of Zoning Map.**

In considering any petition for an amendment to the official Zoning Map, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations, and decision:

- A. The consistency with the goals, policies and objectives of the Royalton Township Development Plan and any sub-area plans. If conditions have changed since the Royalton Township Development Plan was adopted, the consistency with recent development trends in the area shall be considered.
- B. The compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.
- C. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- D. The capacity of Township's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Township.
- E. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- F. The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned and available to accommodate the demand.
- G. The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- 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 Township Board.

### **Section 27.04 Conditional Rezoning**

A. **Intent.** There may be certain instances where it would be in the best interests of the Township, as well as advantageous to the property owner to request a change in zoning boundaries if certain conditions are proposed by the property owner as part of the rezoning request. It is the intent of this Section to provide a process and procedure for conditional rezoning consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. This option shall apply site planning criteria to achieve integration of the development project into the fabric of the project area.

B. **Application and Offer of Conditions.**

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process prior to the public hearing.
2. The required application [Section 27.02(A)] and process [Section 27.02(B) through (G)] for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or densities not permitted in the requested new zoning district.
4. A conditional rezoning plan (CR plan), prepared by a licensed engineer or architect, shall be required to be submitted with the conditional rezoning application. The CR plan shall provide the location, size, height, design, architecture, and other measures and features of buildings, structures, and improvements on, and in some cases adjacent to, the subject property. The detail to be offered for inclusion on a CR plan shall be determined by the applicant, subject to approval by the Planning Commission and Township Board. The CR plan shall be used to communicate the site specific conditions in the Statement of Conditions and shall be attached by reference to the final rezoning agreement. The CR plan shall not replace the subsequent requirements for site plan, subdivision, special land uses, or other similar zoning review and approvals.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately



granted in accordance with the provisions of Article 23 of this Ordinance. Review of the Special Land Use Permit may occur simultaneous to the review of the rezoning.

6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval is ultimately granted in accordance with the provisions of this Ordinance. Review of the site plan may occur simultaneous to the review of the rezoning.
7. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
8. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
9. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such amendment occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application may be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. **Planning Commission Review.** The Planning Commission, after holding a public hearing and consideration of the factors for rezoning set forth in Section 27.03 of this Ordinance, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

1. **Public Hearing.** The conditional rezoning application shall be placed on the agenda for Planning Commission review and scheduled for a public hearing according to the notice requirements and procedures of Section 27.02(C) above.
2. **Action by the Planning Commission.** Following the hearing on the proposed amendment, the Planning Commission shall make findings of fact based on the review criteria in Section 27.03. It shall transmit these findings to the Township Board, together with the comments made at the public hearing and its recommendation.

3. **County Planning Commission Review.** The Planning Commission shall also submit the proposed amendment to the Berrien County Planning Commission for review and recommendation, pursuant to Section 307 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
  
- D. **Township Board Review.** After receipt of the Planning Commission's recommendation and the recommendation from the County Planning Commission (unless waived), the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request, in accordance with the procedures in Section 27.02(E). The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 27.03 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the application may be returned to the Planning Commission for a new public hearing prior to adoption by the Township Board.
  
- E. **Elements of a Conditional Rezoning Application.** The following elements shall be reviewed and approved as an integral part of the conditional rezoning application:
  1. **CR Plan.** A Conditional Rezoning Plan (CR Plan), with such detail as proposed by the applicant and approved by the Township Board in accordance with this Section. The CR Plan shall not replace the requirements for site plan, subdivision or condominium approval, etc. as the case may be.
  
  2. **Rezoning Conditions.** Rezoning conditions, which shall not authorize uses or densities not permitted in the proposed zoning district and which shall not permit uses or development expressly or implicitly prohibited in the Statement of Conditions. Rezoning conditions may include some or all of the following:
    - a. The location, size, height, and setbacks of buildings, structures, and improvements.
  
    - b. The maximum density or intensity of development (e.g., units per acre, maximum usable floor area, hours of operation, etc.).
  
    - c. Measures to preserve natural resources or features.
  
    - d. Facilities to address storm water drainage and water quality.
  
    - e. Facilities to address traffic issues, for example, through road paving or other road improvements.
  
    - f. Open space preservation provisions.
  
    - g. Minimum landscaping, buffering and screening provisions.

- h. Added landscaping, above and beyond what is required by the Zoning Ordinance.
  - i. Building design, materials, lighting and sign criteria.
  - j. Permissible and prohibited uses of the property.
  - k. Provisions to preserve historic farms, barns and other buildings to preserve the history of the Township.
  - l. Measures to protect the rural view shed, which is an undeveloped area adjacent to the road right-of-way, having a depth of at least two hundred (200) feet, where existing natural features, such as wetlands, woodlands, hedgerows, undulating landforms, and scenic vistas are preserved and incorporated into the landscape.
  - m. Reclamation and reuse of land, where previous use of land causes severe development difficulties, or has caused blight.
  - n. Drainage improvements, beyond what is required by ordinance, using best management practices.
  - o. Such other conditions as deemed important to the development by the applicant.
3. **Statement of Conditions.** The Statement of Conditions, which shall be prepared by the applicant (or designee), with the assistance of the Township Attorney or consultants as desired, shall incorporate the CR Plan and set forth the Rezoning Conditions, together with any other terms mutually agreed upon by the parties, including the following terms and requirements:
- a. Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would not have granted the rezoning but for the terms in the Statement of Conditions.
  - b. Agreement and acknowledgement that the conditions and Statement of Conditions are authorized by all applicable state and federal laws and constitution, and that the Statement of Conditions is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.

- c. Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the CR Plan and Statement of Conditions.
- d. Agreement and understanding that each of the requirements and conditions in the Statement of Conditions represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.
- e. The Statement of Conditions shall be in a form recordable with the Berrien County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
- f. Contain a legal description of the land to which it pertains.
- g. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
- h. Incorporate by attachment or reference the CR Plan and any other diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
- i. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Berrien County Register of Deeds.
- j. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

**F. Approval**

- 1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning. Final approval of the

conditional rezoning shall not be granted until the Statement of Conditions has been submitted to the Board for review.

2. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. All parcels involved in a conditional rezoning shall be designated with the suffix “-CR” following the conventional zoning district designation. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
3. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Berrien County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
4. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any provisions contained in the Statement of Conditions.

**G. Compliance with Conditions.**

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable as provided in Article 26 of this Ordinance. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

- H. Time Period for Establishing Development or Use.** Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would

render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy. The extension may be for up to twelve (12) months, and only one such extension may be granted.

- I. **Reversion of Zoning.** If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in the Michigan Zoning Enabling Act (MCL 125.3405). The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests. (Section 27.02)
- J. **Subsequent Rezoning of Land.** When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection I above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Berrien County Register of Deeds that the Statement of Conditions is no longer in effect.
- K. **Amendment of Conditions.**
1. During the time period for commencement of an approved development or use specified pursuant to Subsection H above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
  2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- L. **Township Right to Rezone.** Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended).
- M. **Failure to Offer Conditions.** The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**Section 27.05 Comprehensive Review of Ordinance**

Per Section 308 of Public Act 110 of 2006, the Planning Commission shall annually examine the provisions of this Ordinance and the location of district boundary lines and shall submit a report to the Township Board recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare.

## **CHAPTER 28 MISCELLANEOUS PROVISIONS**

### **Section 28.01 Vested Right**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

### **Section 28.02 Repeal of Prior Ordinance**

The previous Zoning Ordinance adopted by the Royalton Township Board that became effective on February 28, 1976 and has been amended several times since then, also known as Ordinance Number 20, the Royalton Township Zoning Ordinance, is hereby repealed and replaced by this Ordinance, along with all amendments thereof and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance.

### **Section 28.03 Administrative Liability**

No officer, agent, employee, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall render himself or herself personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of this duties and responsibilities pursuant to this Ordinance.

### **Section 28.04 Severability**

This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

### **Section 28.05 Effective Date**

This Ordinance was approved by the Township Board on July 14, 2008 and is ordered to take effect 7 days after publication.

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Township Supervisor / Date

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Township Clerk / Date