

Township of Three Oaks, MI
Wednesday, June 1, 2022

Chapter 380. Zoning


[HISTORY: Adopted by the Township Board of the Township of Three Oaks 12-8-2008. Amendments noted where applicable.]

ATTACHMENTS

Attachment 1 - Table of Uses 

Attachment 2 - Dimensional Standards 

Attachment 3 - Exhibit A, Minor Private Road 

Attachment 4 - Exhibit B, Major Private Road 

Attachment 5 - Zoning Map 

Article I. Preamble and Enactment

§ 380-1.01. Preamble.

- A. Whereas, the Act 110 of the Public Acts of Michigan of 2006, as amended, being the Michigan Zoning Enabling Act,^[1] empowers the Township to enact, establish, administer and enforce a zoning ordinance;
[1] Editor's Note: See MCLA § 125.3101 et seq.
- B. Whereas, the legislative body of Three Oaks Township deems it necessary, for the purpose of promoting the public health, safety, and general welfare of the Township, to enact such an ordinance;
- C. Whereas, the Township pursuant to the provisions of Act 33 of the Public Acts of Michigan of 2008, the Michigan Planning Enabling Act (MCLA § 125.3801 et seq.), as amended, has appointed and created a Township Planning Commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein;
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- D. Whereas, the Township Planning Commission has and will divide the Township into districts and has prepared regulations pertaining to such districts in accordance with a master plan designed to lessen congestion in the streets, secure safety from fire, panic and other potential dangers; promote health, safety and the general welfare; provide adequate light and air; prevent overcrowding of land; avoid undue concentrations of population; facilitate adequate provision for transportation, water, sewerage disposal, schools, parks and other public improvements;
- E. Whereas, the Township Planning Commission has given full and reasonable consideration to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality;
- F. Whereas, the Township Planning Commission has given due public notice of a hearing related to this comprehensive amendment and has held such public hearing as required by law;
- G. Whereas, the Township Planning Commission has submitted its report to Township Board; and

- H. Whereas, all requirements of the Michigan Zoning Enabling Act with regard to the review and approval of this chapter have been met.

Article II. Title and Purpose

§ 380-2.01. Title.

This chapter shall be known as the "Three Oaks Township Zoning Ordinance" and will be referred to herein as "this chapter."

§ 380-2.02. Purpose.

The fundamental purpose of this chapter is to promote the public health, safety, morals and general welfare; to develop and preserve the natural beauty and aesthetic quality of the community to the end that property values may be preserved; to encourage the use of lands in accordance with their character and adaptability; to limit the overcrowding of population; to promote adequate air and light; to lessen congestion on the public and private roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public improvements and services; to implement and carry out the purposes of the Land Division Act, being Act 288 of 1967,^[1] as amended; to accomplish any other purposes contained in the Michigan Zoning Enabling Act, being Act 110 of 2006,^[2] as amended; and to conform with the most advantageous, uses of land, resources and properties within the unincorporated portion of Three Oaks Township, Berrien County, Michigan.

[1] *Editor's Note: See MCLA § 560.101 et seq.*

[2] *Editor's Note: See MCLA § 125.3101 et seq.*

Article III. Zoning Districts and Map

§ 380-3.01. Division of Township into zoning districts.

For the purpose of this chapter, all of the unincorporated area of within the Township shall be divided into the following zoning districts:

Agricultural Zoning Districts

AG-RR Agricultural - Rural Residential District

Residential Zoning Districts

R-1 Single-Family Residential District

R-2 Two-Family Residential District

R-3 Multifamily Residential District

R-4 Mobile Home Residential District

Commercial and Industrial Zoning Districts

C-1 Commercial District

I Industrial District

Special Purpose Overlay Zoning Districts

FP Floodplain (Overlay) District

§ 380-3.02. Zoning Map.

- A. The area assigned to these districts and the boundaries thereof shown upon the map entitled "Three Oaks Township Zoning Map" are hereby established, and that map, as needed, may be amended from time to time, and all proper notations, references and other information shown thereon are hereby made a part of this chapter.
- B. The Three Oaks Township Zoning Map shall be identified by the signature of the Township Supervisor attested to by the Township Clerk under the words: "This is to certify that this is referred to in § 380-3.02 of the Three Oaks Zoning Ordinance of Three Oaks Township."

§ 380-3.03. Boundaries of Zoning Districts.

- A. Unless otherwise provided in this chapter, the boundaries of zoning districts shall be interpreted as following along section lines, or lines of customary subdivision of such section; or the right-of-way line of highways, streets, alleys or property lines on record at the office of the Register of Deeds of Berrien County as of the date of enactment of this chapter.
- B. All zoning district lines shall commence at the edge of the highway or street right-of-way when measuring the depth of the district, and as far as possible, all district lines shall run parallel to the street or highway right-of-way lines.

§ 380-3.04. Amendments to Zoning Map.

- A. If, in accordance with the provisions of this chapter, amendments are made changing the district boundaries or other matter portrayed by the Three Oaks Township Zoning Map, such changes must be made on the Three Oaks Township Zoning Map, together with an entry made thereon as follows: "On this ____ day of ____ 20__, by action of the Township Board (Ordinance Number ____), the following changes were made on the Zoning Map (a brief description of the nature of the change must be inserted):" which entry must be signed by the Township Supervisor and attested to by the Township Clerk and must be made promptly after such amendment has been approved by the Township Board.
- B. No changes of any nature may be made on the Zoning Map or matter shown thereon except in conformity with the procedure set forth in this chapter. Any unauthorized changes of whatever kind, by any person or persons, will be considered a violation of this chapter and punishable as provided in this chapter.

§ 380-3.05. Zoning Map as final authority.

The Zoning Map is the final authority as the current status of the land and water areas, buildings and other structures within the unincorporated portion of Township, regardless of the existence of purported copies of the Zoning Map which may from time to time be published.

§ 380-3.06. Interpretation of district boundaries.

If uncertainty as to the boundary of any district shown on the Zoning Map, the Board of Appeals shall determine the location of such boundaries according to the following standards for interpretation of district boundaries established in this chapter:

- A. A boundary indicated as approximately following the center line of a highway, street, alley or easement shall be construed as following such line.
- B. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.

- C. A boundary indicated as approximately following the corporate boundary line of the Township shall be construed as following such line.
- D. A boundary indicated as following a railroad line shall be construed as being the center line of the railroad right-of-way.
- E. A boundary indicated as following a shoreline shall be construed as following such shoreline and in the event of change in a shoreline shall be construed as following the actual shoreline.
- F. A boundary indicated as following the center line of a water body shall be construed as following such center line at the time of interpretation.
- G. A boundary indicated as parallel to, or an extension of, a feature indicated in Subsections **A** through **F** above shall be so construed.
- H. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

§ 380-3.07. Summary tables.

The following tables are provided for expeditious reference of the basic standards of this chapter. However, they should not be substituted for careful reference to the specific language of the text.

- A. Table 3.07, 1: Table of Uses,^[1] summarizes the applicable regulatory standards for the land uses governed under this chapter. In the event of a discrepancy between the table and the text of the chapter, the text shall prevail.
[1] Editor's Note: The Table of Uses is included as an attachment to this chapter.
- B. Table 3.07, 2: Dimensional Standards,^[2] provides an overview of the dimensional requirements of this chapter. In the event of a discrepancy between the table and the text of the chapter, the text shall prevail.
[2] Editor's Note: The Dimensional Standards table is included as an attachment to this chapter.

Article IV. AG-RR Agricultural - Rural Residential District

§ 380-4.01. Intent.

- A. The intent of the AG-RR Agricultural - Rural Residential District is to provide an area in the Township where single-family homes and farming operations can be located. This district includes agricultural farming operations, mini-farms on which the agricultural use of the land is subordinate to the use of the land for a single-family home, and related uses.
- B. The regulations are intended to retain, insofar as is practicable and desirable, the agricultural and rural character of this district. It is also the purpose of this district to permit those uses customarily considered agricultural operations, provided such agricultural uses are compliant with Michigan Department of Agriculture-approved Generally Accepted Agricultural Management Practices (GAAMP).

§ 380-4.02. Permitted uses.

- A. Accessory building with footprint greater than the footprint of the principal structure.
- B. Accessory building with footprint less than or equal to the footprint of the principal structure.
- C. Accessory use to uses permitted by right.

- D. Day care, family.
- E. Dwelling, single-family.
- F. Essential service.
- G. Farm and farm operations.
- H. Greenhouse.
- I. Hobby/specialty farm operation.
- J. Home occupations, minor.
- K. Place of public assembly, small.
- L. Recreation facility, public.
- M. Roadside stands.
- N. Stable/riding academy.
- O. Township uses.
- P. Unclassified uses, per § 380-12.20.

§ 380-4.03. Special land uses.

- A. Accessory dwelling.
- B. Accessory use to a permitted special use.
- C. Agritourism establishment.
- D. Bed-and-breakfast.
- E. Contractor storage yard.
[Added 1-14-2019 by Ord. No. 6C]
- F. Educational facility.
- G. Farm product processing facility.
- H. Governmental office.
- I. Home occupation, major.
- J. Kennel.
- K. Landfill and gas recovery.
- L. Place of public assembly, large.
- M. Private road.
- N. Restaurants accessory to an existing recreational facility.
[Added 8-10-2020 by Ord. No. 61]
- O. Subdivision, conventional.
- P. Subdivision, conservation.
- Q. Wireless communication antenna.
[Added 9-20-2017 by Ord. No. 6B]

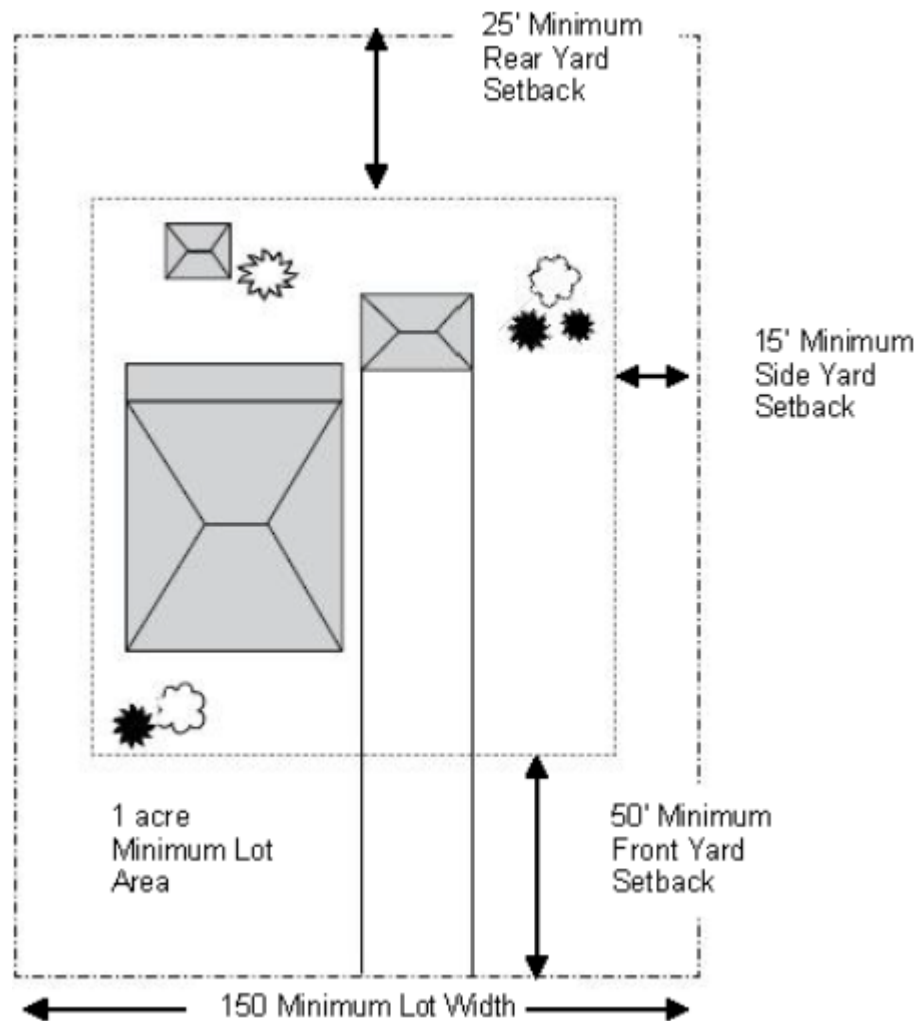
§ 380-4.04. Additional standards.

- A. Accessory buildings and structures must comply with the yard requirements of this article.
- B. Parking and loading requirements subject to Article **XIII**.
- C. Signage requirements subject to Article **XIV**.

§ 380-4.05. District regulations.

- A. Minimum lot area: one acre.
- B. Minimum building setbacks.
 - (1) Front: 50 feet.
 - (2) Side: 15 feet.
 - (3) Rear: 25 feet.
- C. Minimum lot width: 150 feet.
- D. Maximum building height:
 - (1) The lesser of 35 feet or 2 1/2 stories.
 - (2) Nonresidential buildings and accessory use buildings and structures shall be exempt from the above height requirements. Agricultural buildings shall not exceed 45 feet, except for grain elevators, silos, and windmills, which shall not exceed 120 feet in height.
- E. Maximum lot coverage: 35%.
- F. Minimum floor area: 1,000 square feet. The minimum first-floor area of a one-story residential dwelling shall be 1,000 square feet, and for a two-story dwelling, the minimum first-floor area shall be 800 square feet, and all residential buildings shall have a minimum total of 1,000 square feet for both stories.

AG-RR Agriculture - Residential District Regulations



§ 380-4.06. Other provisions.

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

- A. Right to farm. It is the intent of this zoning district to both govern and protect agricultural land, building and structural uses in accordance with the provisions of Act 93 of the Public Acts of Michigan of 1981, as amended, known as the "Right to Farm Act,"^[1] when such operations are compliant with generally accepted agricultural management practices as established by the Michigan Department of Agriculture. All legal nonconforming agricultural operations as defined by the Right to Farm Act shall be governed by the provisions of this chapter to the extent that such provisions are not in conflict with the provisions of the Right to Farm Act, in which case, the provisions of the Right to Farm Act shall prevail.

[1] *Editor's Note: See MCLA § 286.471 et seq.*

Article V. R-1 Single-Family Residential District

§ 380-5.01. Intent.

The Single-Family Residential District is planned as the prime residential area for the placement of single-family dwellings and certain other compatible accessory use buildings, structures and land uses.

§ 380-5.02. Permitted uses.

- A. Accessory building with footprint less than or equal to the footprint of the principal structure.
- B. Accessory use to use permitted by right.
- C. Day care, family.
- D. Dwelling, single-family.
- E. Essential service.
- F. Home occupation, minor.
- G. Place of public assembly, small.
- H. Private road.
- I. Subdivision, conservation.
- J. Township uses.
- K. Unclassified uses, per § 380-12.20.

§ 380-5.03. Special land uses.

- A. Accessory building with floor area greater than the footprint of the principal structure.
- B. Accessory dwelling.
- C. Accessory use to a permitted special use.
- D. Bed-and-breakfast.
- E. Educational facility.
- F. Governmental office.
- G. Hobby/specialty farm operation.
- H. Home occupation, major.
- I. Kennel.
- J. Place of public assembly, large.
- K. Planned unit development.
- L. Subdivision, conventional.

§ 380-5.04. Additional standards.

- A. Accessory buildings and structures must comply with the yard requirements of this article.
- B. Parking and loading requirements subject to Article **XIII**.
- C. Signage requirements subject to Article **XIV**.
- D. Landscaping standards subject to § 380-12.11.

§ 380-5.05. District regulations.

- A. Minimum lot area: 15,000 square feet.

B. Minimum building setbacks.

- (1) Front: 50 feet.
- (2) Side: 15 feet.
- (3) Rear: 25 feet.

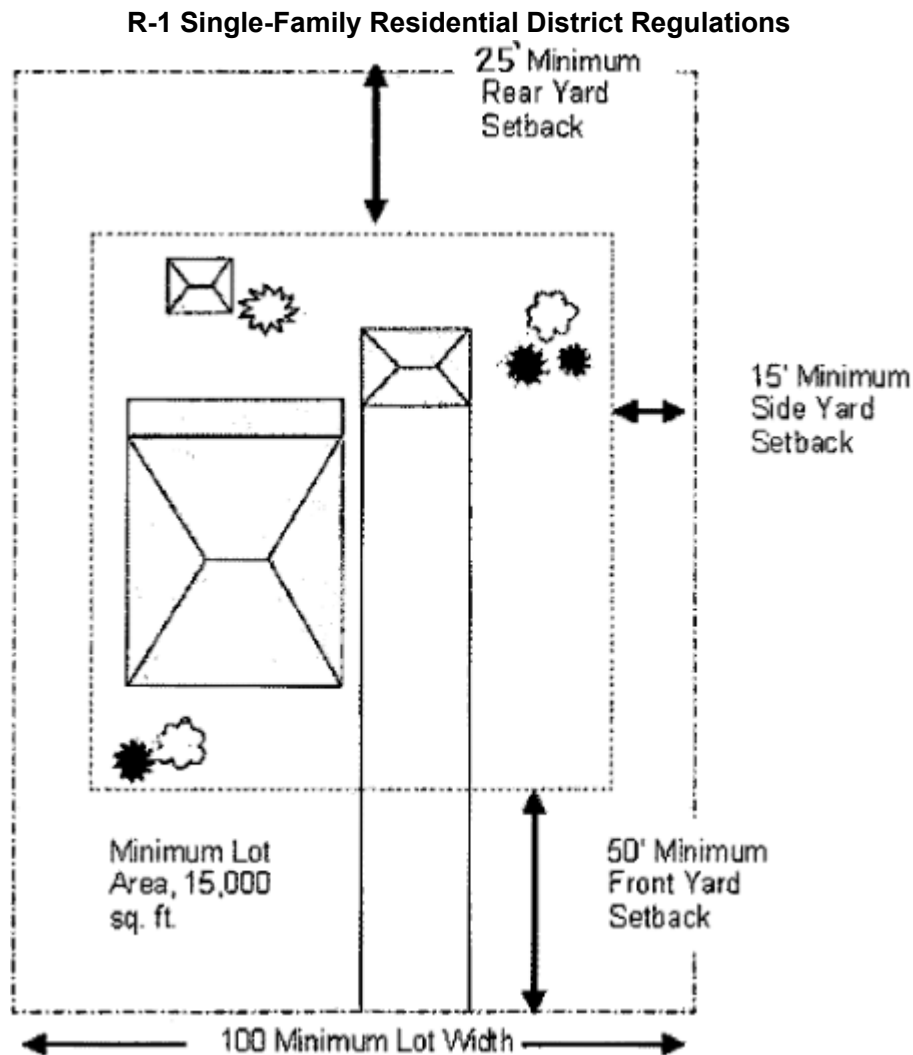
C. Minimum lot width: 100 feet.

D. Maximum building height: the lesser of 35 feet or 2 1/2 stories.

E. Maximum lot coverage: 30%.

F. Minimum floor area: 1,250 square feet. Single-family dwellings shall have a minimum floor area of 1,250 square feet, and a minimum of 2/3 of the required minimum floor area shall be on the ground level (i.e., 833 square feet).

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



Article VI. R-2 Two-Family Residential District

§ 380-6.01. Intent.

The two-family residential district is planned as the prime residential area for the placement of attached duplex and other two-family residential dwellings and certain other compatible accessory use buildings,

structures and land uses.

§ 380-6.02. Permitted uses.

- A. Accessory building with footprint less than or equal to the footprint of the principal structure.
- B. Accessory uses to use permitted by right.
- C. Day care, family.
- D. Dwelling, single-family.
- E. Dwelling, two-family.
- F. Essential services.
- G. Home occupation, minor.
- H. Place of public assembly, small.
- I. Private road.
- J. Subdivision, conservation.
- K. Township uses.
- L. Unclassified uses, per § 380-12.20.

§ 380-6.03. Special land uses.

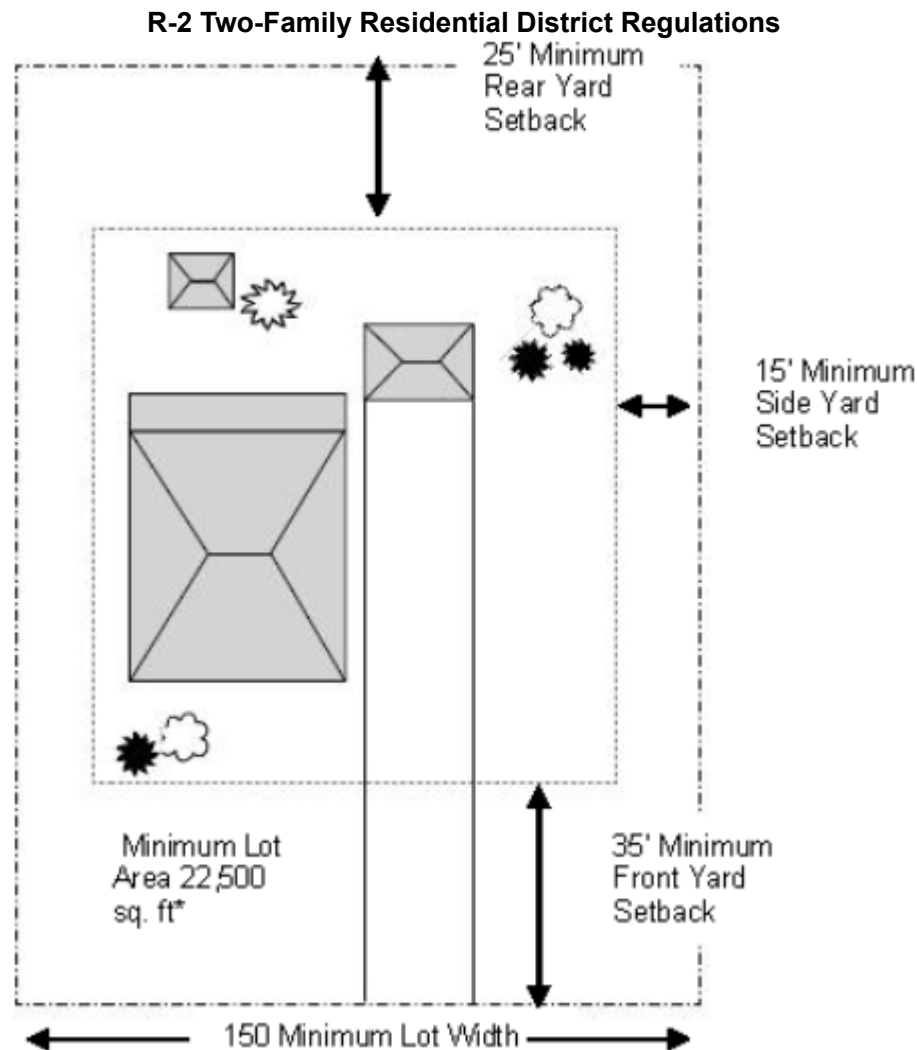
- A. Accessory building with footprint greater than the footprint of the principal structure.
- B. Accessory use to a permitted special use.
- C. Bed-and-breakfast.
- D. Educational facility.
- E. Governmental office.
- F. Home occupation, major.
- G. Place of public assembly, large.
- H. Planned unit development.
- I. Subdivision, conventional.

§ 380-6.04. Additional standards.

- A. Accessory buildings and structures must comply with the yard requirements of this article.
- B. Parking and loading requirements subject to Article **XIII**.
- C. Signage requirements subject to Article **XIV**.
- D. Landscaping standards subject to § 380-12.11.

§ 380-6.05. District regulations.

- A. Minimum lot area: 22,500 square feet (plus 6,000 square for the second dwelling unit).
- B. Minimum building setbacks.
 - (1) Front: 35 feet.
 - (2) Side: 15 feet.
 - (3) Rear: 25 feet.
- C. Minimum lot width: 150 feet.
- D. Maximum building height: the lesser of 35 feet or 2 1/2 stories.
- E. Maximum lot coverage: 30%.
- F. Minimum floor area: 1,250 square feet. Every two-family dwelling unit structure in the Two-Family Residential District shall have a total combined floor area of no less than 1,500 square feet. Each dwelling unit in this district shall have a minimum of 2/3 of the required minimum floor area on the ground level (i.e., 1,000 square feet for single-family dwelling unit and 500 square feet for a multifamily dwelling unit).



Article VII. R-3 Multifamily Residential District

§ 380-7.01. Intent.

The Multifamily Residential District is planned as the residential area for the erection of attached multifamily dwellings and certain other compatible accessory use buildings, structures and land uses. It is required that all developments, except for a single-family or two-unit dwelling located on a single zoning lot, be approved as a planned unit development pursuant to § 380-15.22, pertaining to planned unit developments.

§ 380-7.02. Permitted uses.

- A. Accessory building with footprint less than or equal to the footprint of the principal structure.
- B. Accessory use to use permitted by right.
- C. Day care, family.
- D. Dwelling, multiple-family.
- E. Dwelling, single-family.
- F. Dwelling, two-family.
- G. Essential service.
- H. Home occupation, minor.
- I. Place of public assembly, small.
- J. Private road.
- K. Subdivision, conservation.
- L. Township uses.
- M. Unclassified uses, per § 380-12.20.

§ 380-7.03. Special land uses.

- A. Accessory building with footprint greater than the footprint of the principal structure.
- B. Accessory use to a permitted special use.
- C. Day care, group.
- D. Educational facility.
- E. Governmental office.
- F. Home occupation, major.
- G. Place of public assembly, large.
- H. Planned unit development.
- I. Subdivision, conventional.

§ 380-7.04. Additional standards.

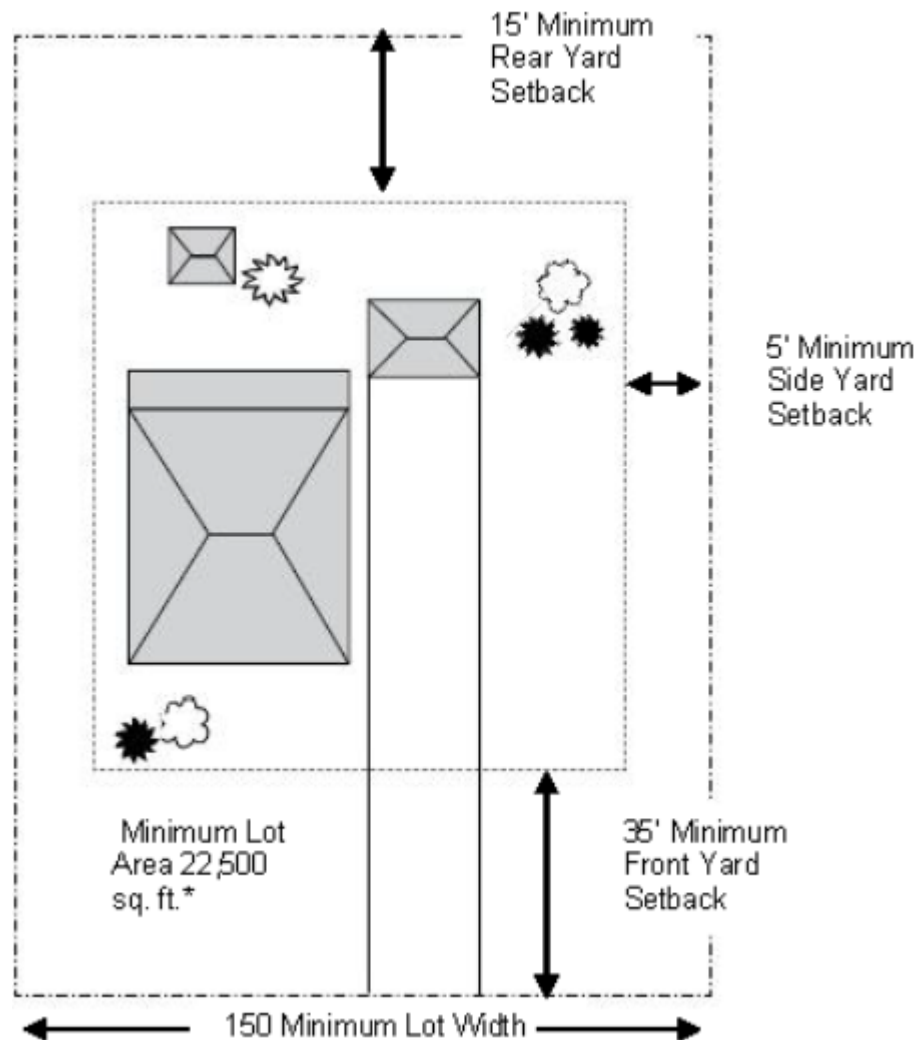
- A. Accessory buildings and structures must comply with the yard requirements of this article.
- B. Parking and loading requirements subject to Article **XIII**.

- C. Signage requirements subject to Article **XIV**.
- D. Landscaping standards subject to § 380-12.11.

§ 380-7.05. District regulations.

- A. Minimum lot area: 22,500 square feet, plus 6,000 square feet for each additional dwelling unit after the first.
- B. Minimum building setbacks.
 - (1) Front: 35 feet.
 - (2) Side: five feet.
 - (3) Rear: 15 feet.
- C. Minimum lot width: 150 feet.
- D. Maximum building height: the lesser of 35 feet or 2 1/2 stories.
- E. Maximum lot coverage: 30%.
- F. Minimum floor area: 1,250 square feet. Every two-family dwelling unit in the Multifamily Residential District shall have a floor area of no less than 1,500 square feet. Each dwelling unit in this district shall have a minimum of 2/3 of the required minimum floor area on the ground level (i.e., 1,000 square feet).

R-3 Multifamily Residential District Regulations



Article VIII. R-4 Mobile Home Residential District

§ 380-8.01. Intent.

It is the intent of this district to establish a locale to accommodate manufactured housing communities as regulated by the Michigan Mobile Home Commission Act, Act 96 of the Public Acts of 1987,^[1] as amended, and the rules and regulations of the Manufactured Housing Commission. The R-4 District may also accommodate other forms of higher density residential uses.

[1] *Editor's Note: See MCLA § 125.2301 et seq.*

§ 380-8.02. Permitted uses.

- A. Accessory building with footprint less than or equal to the footprint of the principal structure.
- B. Accessory use to uses permitted by right.
- C. Day care, family.
- D. Home occupation, minor.
- E. Manufactured housing community.
- F. Private road.

- G. Recreational facility.
- H. Subdivision, conservation.
- I. Township uses.
- J. Unclassified uses, per § 380-12.20.

§ 380-8.03. Special land uses.

- A. Accessory building with footprint greater than the footprint of the principal structure.
- B. Accessory use to permitted special use.
- C. Adaptive reuse.
- D. Day care, group.
- E. Dwelling, multiple-family.
- F. Dwelling, two-family.
- G. Dwelling, single-family.
- H. Home occupation, major.
- I. Mixed use development.
- J. Planned unit development.
- K. Subdivision, conventional.

§ 380-8.04. Additional standards.

- A. All uses other than manufactured housing communities shall submit a site plan per Article **XVI**.
- B. Parking and loading requirements subject to Article **XIII**.
- C. Signage requirements subject to Article **XIV**.
- D. Landscaping standards subject to § 380-12.11.

§ 380-8.05. District regulations.

- A. Minimum lot area.
 - (1) Six thousand square feet/10,000 square feet for a single-family dwelling.
 - (2) Ten thousand square feet for two-family or multifamily units.
- B. Minimum lot width.
 - (1) Sixty feet for a single-family unit.
 - (2) Eighty feet for two-family or multifamily units.
- C. Minimum building setbacks.
 - (1) Front: 15 feet.
 - (2) Side: 20 feet.

- (3) Rear: 10 feet.
- D. Maximum building height: the lesser of 35 feet or 2 1/2 stories.
- E. Maximum lot coverage: 40%.
- F. Minimum floor area: N/A.

§ 380-8.06. Manufactured housing communities.

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

The R-4 Mobile Home Residential District is intended to provide for the location and regulation of manufactured housing communities. It is intended that manufactured housing communities be provided with necessary community services in a setting that provides a high quality of life for residents and residential development standards consistent with all other residential districts in the Township of Three Oaks. This district shall be located in areas where it will be compatible with adjacent land uses. It is further the intent of this district to prohibit office, business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development, or continued use, of the land for manufactured housing communities in the district. Determining the appropriate location for a manufactured housing community is a uniquely challenging task and may have a crucial impact on adjacent and surrounding land uses. A manufactured housing community contains specific site conditions unlike other types of residential development. Sites with an abundance of natural features, such as forested areas, wetlands, and steep slopes, and sites without the road and utility infrastructure to support a high-density environment are not found to be suitable for the development of a manufactured housing community.

- A. Application procedures. Pursuant to Section 11 of Act 96 of the Public Acts of 1987,^[1] as amended, and the rules promulgated thereunder, an application for the extension, alteration, or construction of a manufactured home development shall be accompanied by a preliminary plan of the proposed development and all permanent buildings, indicating the proposed methods of compliance with these requirements:
 - (1) An application form shall be completed and fees paid in accordance with the fee schedule (as amended from time to time by resolution of the Township Board of Trustees), and 12 copies of the preliminary plan shall be submitted to the Zoning Administrator for distribution to the Planning Commission.
 - (2) The preliminary plan need not include detailed construction plans, but shall include the following materials:
 - (a) The applicant's name, address and telephone number and the property owner's name, address and telephone number if different from that of the applicant.
 - (b) Notation of all federal, state and local permits required.
 - (c) The location of the project, including the permanent parcel number(s) of the property upon which the project is proposed to be located.
 - (d) The layout of the project, including an illustration of the internal roadway system proposed and typical homesite layout.
 - (e) The general design of the proposed project, including the proposed location and design of signs, trash receptacles, light fixtures and any accessory structures, open lands and recreation areas and accessory uses.
 - (f) The location, spacing, type and size of proposed plant materials.
 - (g) A general description of the proposed project, including the number of homesites proposed, the anticipated phasing of project development and an indication of the number of homesites to be rented and the number to be sold, if any.

[1] *Editor's Note: See MCLA § 125.2311.*

B. Review process.

- (1) The Planning Commission shall review the submitted preliminary plan and render a decision to approve, approve with conditions or deny the preliminary plan. The Planning Commission shall approve the preliminary plan upon a finding that the proposed use will not, upon the facts known at the time of the submission of the site plan, cause undue hardship, or create unsafe or hazardous health or safety conditions to the general public. Not more than 60 days following the receipt by the Township of a complete application for preliminary plan approval, the Planning Commission shall approve, approve with conditions or modifications, or deny an application and preliminary plan pursuant to the Mobile Home Commission Act, the rules promulgated thereunder and this chapter.
- (2) Upon approval of the preliminary plan, the Zoning Administrator shall sign three copies thereof. One signed copy shall be made a part of the Township's files, one copy shall be forwarded to the Zoning Administrator for issuance of a zoning permit, and one copy shall be returned to the applicant. Construction shall commence within five years after the date of issuance of a construction permit by the Michigan Department of Licensing and Regulatory Affairs unless an extension has been granted by said Department. Amendments to the approved preliminary plan must be submitted to the Planning Commission for review and approval.

C. Noncompliance. Any substantial noncompliance with the approved preliminary plan shall be reported to the Manufactured Housing Division of the Department of Licensing and Regulatory Affairs for remedy along with all pertaining evidence.

D. Site development requirements. The site development requirements of the Manufactured Housing Commission, together with any other applicable requirements of the State of Michigan, Act 96 of 1987, as amended, shall be complied with. No manufactured housing community shall be maintained, operated, or conducted without an annual license from the Michigan Department of Licensing and Regulatory Affairs. An inspection of construction may be performed at any appropriate time, pursuant to 1987 PA 96, as amended (the Mobile Home Commission Act^[2]).

[2] *Editor's Note: See MCLA § 125.2301 et seq.*

E. Site size. The minimum site size for a manufactured housing community shall be 15 acres.

Article IX. C-1 Commercial District

§ 380-9.01. Intent.

The Commercial District is established as a district in which the principal use of land is for mercantile establishments of all types, personal service establishments, eating and drinking establishments, professional and other business offices, offices of governmental institutions (including schools and municipal buildings), churches, etc., and all other similar uses that rely upon street/road frontage and site access that accesses on-site parking.

§ 380-9.02. Permitted uses.

- A. Accessory building with footprint greater than the footprint of the principal structure.
- B. Accessory building with footprint less than or equal to the footprint of the principal structure.
- C. Accessory use to uses permitted by right.
- D. Bed-and-breakfast.

- E. Educational facilities.
- F. Essential service.
- G. Financial institution.
- H. Funeral home or mortuary.
- I. Governmental office.
- J. Greenhouse.
- K. Lodges, fraternal, labor and social halls.
- L. Place of public assembly, small.
- M. Private road.
- N. Professional office or professional service establishment.
- O. Restaurants and taverns.
- P. Retail business.
- Q. Subdivision, conventional.
- R. Township uses.
- S. Unclassified uses, per § 380-12.20.

§ 380-9.03. Special land uses.

- A. Accessory use to a permitted special use.
- B. Adaptive reuse.
- C. Adult uses.
- D. Gasoline station with convenience store.
- E. Hotels/motels.
- F. Kennel.
- G. Place of public assembly, large.
- H. Planned unit development.
- I. Residential above retail.
- J. Roadside stand.
- K. Theaters.
- L. Vehicle repair facility.
- M. Warehouse.

§ 380-9.04. Additional standards.

- A. Accessory buildings and structures must comply with the yard requirements of this article.
- B. Parking and loading requirements subject to Article **XIII**.

- C. Signage requirements subject to Article **XIV**.
- D. Landscaping standards subject to § 380-12.11.

§ 380-9.05. District regulations.

- A. Minimum lot area: none.
- B. Minimum building setbacks.
 - (1) Front: 40 feet.
 - (2) Side: 10 feet.
 - (3) Rear: 40 feet.
- C. Minimum lot width: none.
- D. Maximum building height.
 - (1) The lesser of 35 feet or three stories.
 - (2) The height of any accessory use structure shall not exceed 50% of the horizontal distance of the closest point of the structure to the closest property line of any residential use property or zoning district.
- E. Maximum lot coverage: 80%.
- F. Minimum floor area: none.

§ 380-9.06. Display of goods and merchandise in C-1 Commercial District.

All merchants and businesses located within the C-1 Commercial Districts shall maintain a five-foot width of continuous free and clear passage for safe pedestrian traffic from the backside of the curb (where provided), and at no time shall any merchant or other person be allowed to occupy more than 50% of any sidewalk (where provided) for displaying goods, wares and merchandise.

Article X. I Industrial District

§ 380-10.01. Intent.

The Industrial District is established as a district in which the principal use of land is for industries which do not emit noise, vibration, smoke, dust, odors, heat, glare, and other influences sufficient to constitute an adverse influence and detract from adjacent residential or commercial zoning districts.

§ 380-10.02. Permitted uses.

- A. Accessory building with footprint greater than the footprint of the principal structure.
- B. Accessory building with footprint less than or equal to the footprint of the principal structure.
- C. Accessory use to uses permitted by right.
- D. Assembly operations.

- E. Essential service.
- F. Financial institutions.
- G. Private road.
- H. Professional office or professional service establishment.
- I. Subdivision, conventional.
- J. Township uses.
- K. Unclassified uses, per § 380-12.20.
- L. Warehouse.

§ 380-10.03. Special land uses.

- A. Accessory use to permitted special use.
- B. Contractor storage yard.
[Added 1-14-2019 by Ord. No. 6C]
- C. Gasoline station with convenience store.
- D. Kennel.
- E. Planned unit development.
- F. Processing and manufacturing.
- G. Retail sales in industrial developments, subject to § 380-15.24.
- H. Wireless communication antenna.
[Added 9-20-2017 by Ord. No. 6B]

§ 380-10.04. Additional standards.

- A. Accessory buildings and structures must comply with the yard requirements of this article.
- B. Parking and loading requirements subject to Article **XIII**.
- C. Signage requirements subject to Article **XIV**.
- D. Landscaping standards subject to § 380-12.11.

§ 380-10.05. District regulations.

- A. Minimum lot area: none.
- B. Minimum building setbacks.
 - (1) Front: 40 feet.
 - (2) Side: 10 feet.
 - (3) Rear: 40 feet. No building sign or storage facility shall be closer than 50 feet to any residential use or residential zoning district boundary.
- C. Minimum lot width: none.

D. Maximum building height:

- (1) The lesser of 35 feet or three stories.
- (2) The height of any accessory use structure shall not exceed 50% of the horizontal distance of the closest point of the structure to the closest property line of any residential uses property or zoning district.

E. Maximum lot coverage: 80%.

F. Minimum floor area: none.

§ 380-10.06. Performance standards.

In reviewing site plans for proposed development in the Industrial District, the Planning Commission shall consider the degree to which a proposed use may result in any effects that may create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises; provided, however, any use permitted in this chapter may be undertaken and maintained if the site plan includes measures acceptable to the Planning Commission to limit dangerous or objectionable effects on adjoining properties, as established by the following performance requirements:

- A. Sound. The emission of noise measurable in decibels (dB) on a persistent or frequently recurrent basis from the premises shall not exceed the sound levels outlined in the table below, when measured at any property line. These regulations do not apply to construction activities, maintenance activities, noises of safety signals, warning devices, emergency pressure relief valves, or special community events approved by Township Board.

Source of Sound	Receiving Property		
	Residential (dB)	Commercial (dB)	Industrial (dB)
Residential	50	57	60
Commercial	55	60	65
Industrial	55	65	70

- B. Vibration. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 inch measured at any lot line of its source. Vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses.
- C. Odor. The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines.
- D. Toxic gases. The escape or emission of any gas, which is injurious or destructive or explosive, shall be unlawful and shall be summarily abated, as directed.
- E. Glare and heat. Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.
- F. Light. All lighting shall be arranged to reflect light away from adjacent parcels and must follow the standards outlined in § 380-12.12.
- G. Electromagnetic radiation. The rules and regulations of the Federal Communications Commission, as amended, with respect to the propagation and dissemination of electromagnetic radiation must be followed and are hereby made a part of this chapter.

- H. Drifted and blown material. The drifting or airborne transmission beyond the lot line of soot, particles, or debris from any stockpile shall be unlawful and shall be summarily abated, as directed.
- I. Smoke, dust, dirt, and fly ash. It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator, for a period or periods aggregating more than three minutes in any 60 minutes, which is more than 40% opaque.

Article XI. FP Floodplain Overlay

§ 380-11.01. Intent.

It is the intent of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions and to comply with the provisions of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968,^[1] and subsequent enactments and the rules and regulations promulgated in furtherance of the program by the Federal Emergency Management Agency.

[1] *Editor's Note: See 42 U.S.C. § 2414 et seq.*

§ 380-11.02. Delineation of Flood Hazard (Overlay) Zoning District.

- A. Boundary designated on Zoning Map. The flood hazard zone shall overlay existing zoning districts delineated on the Zoning Map of Three Oaks Township, subject to verification by the Michigan Department Environmental Quality. The boundaries of the flood hazard zone shall coincide with the boundaries of the area shown on the Zoning Map.
- B. Final determination of flood hazard boundary line. It shall be the responsibility of any property owner or any other person with a dispute as to the exact location of the flood hazard area zone boundary on a specific property to determine the exact location of the boundary through application for a determination of a flood hazard boundary with the Michigan Department of Environmental Quality.
- C. Suspension of Township action until final determination is made. The Township shall suspend and hold in abeyance the processing of any application for a zoning or building permit until a final determination is made by the Michigan Department of Environmental Quality and such documentation is filed with the Zoning Administrator.
- D. Application of other laws and requirements. In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this article shall be necessary for all developments occurring within the flood hazard area zone. Conflicts between the requirements of this article and other requirements of this chapter or any other state or federal law or regulation shall be resolved in favor of the most stringent requirements, and the most stringent regulation shall apply.

§ 380-11.03. MDEQ permit required prior to issuance of building permit.

Development, including the erection of structures of any type within a flood hazard area shall not occur except upon issuance of a building permit in accordance with the requirements of this chapter and the Township Building Code^[1] and only upon presentation of a permit issued by the Michigan Department of Environmental Quality (MDEQ).

- A. Applicable standards. All construction shall meet the following standards:
- (1) The requirements of this article;
 - (2) The requirements of the underlying zoning districts and applicable general and special provision of this chapter; and
 - (3) All applicable state and federal laws and regulations.
- B. Certificate of compliance. Compliance with the standards of this section shall be certified by a Michigan licensed professional civil engineer. A copy of said certification shall be furnished to the Zoning Administrator prior to the issuance of a building permit.
- C. Construction standards. Any new construction and any alteration to existing building, structures and infrastructure connections servicing any building and structure shall conform to the following standards:
- (1) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure.
 - (2) Be constructed with materials and utility equipment resistant to flood damage.
 - (3) Be constructed by methods and practices that minimize flood damage.
 - (4) New and replacement water and sewer systems shall minimize or eliminate infiltration of flood waters into the system and on-site waste disposal systems shall be located to avoid impairment to the system due to flooding.
 - (5) The flood-carrying capacity of any watercourse or floodway shall be maintained unless such construction is permitted by the Michigan Department of Environmental Quality subject to adequate volume compensation as required by the Michigan Department of Environmental Quality.
 - (6) The first habitable floor (including basements) is no less than one foot higher than the base flood elevation as determined by the Michigan Department of Environment Quality.

[1] *Editor's Note: See Ch. 135, Construction Standards and Enforcement, Art. I.*

§ 380-11.04. Land division requirements.

Land within this district shall not be divided in any manner by any means creating lot or parcel that cannot be used in conformance with the requirements of this article.

Article XII. General Provisions

§ 380-12.01. Scope; use of land, buildings and structures.

No building or land shall be used and no building shall be hereafter erected, structurally altered, or relocated except for one or more of the uses herein permitted within the district in which such building, structure, or land is located or for a use similar to and harmonious with such permitted uses, except as provided in Article **XVII**, Nonconforming Uses, Buildings and Lots, and Article **XVIII**, Board of Appeals, of this chapter.

§ 380-12.02. Accessory buildings.

- A. All accessory buildings, as defined in Article **XXII**, shall meet the yard, setback and building height requirements of this chapter.

- B. Except in the Agricultural (AG-RR) District, an accessory building shall not be constructed prior to the construction of the principal structure; provided, however, that the Zoning Administrator shall be permitted to issue a temporary use permit for an accessory building to be used for up to one year prior to the construction of the principal building.
- C. If an accessory building is attached to a principal building by either a common foundation, common wall or common roof element, it shall be deemed to be a part of the principal structure, and the entire structure shall comply with the terms of this chapter.
- D. In the R-1, R-2, R-3 and R-4 Districts, the storage of not more than one commercial vehicle is permitted in an accessory building

§ 380-12.03. Barrier-free access ramps.

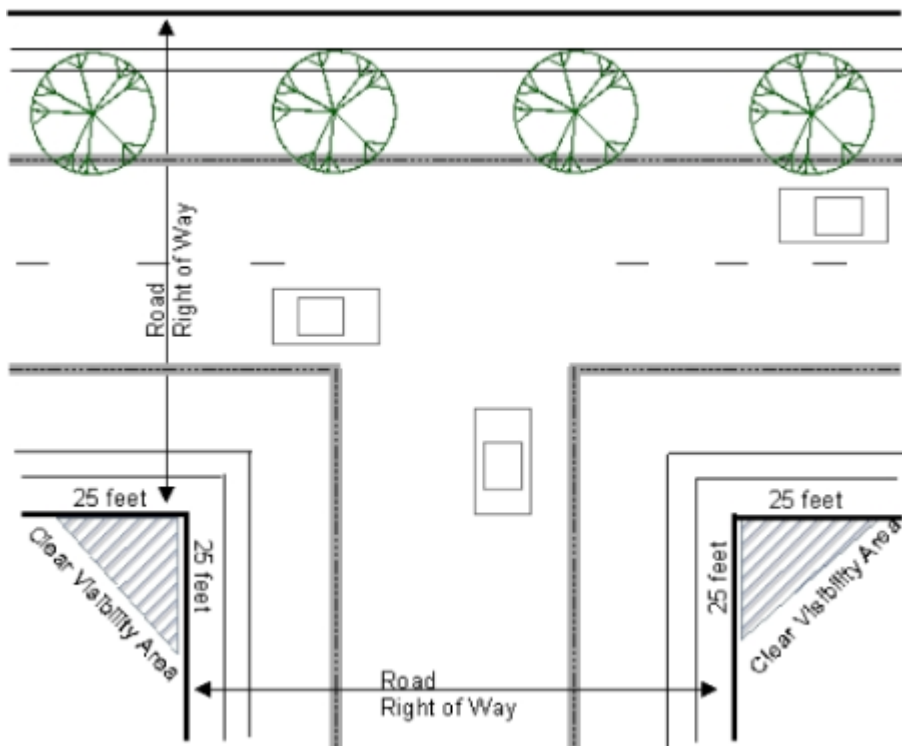
A variance may be granted by the Zoning Board of Appeals from the strict terms of this section for an applicant to provide a ramp necessary to access any principal residential or other structure to comply with the Americans with Disabilities Act^[1] requirements. Standards for granting a variance shall include a first preference for installation of such ramps in the rear or side yards. Granting a variance for installation of a ramp in the front yards shall only be considered in cases where no side or rear access can be obtained in compliance with accessible ramp construction requirements.

[1] *Editor's Note: See 42 U.S.C. § 12101 et seq.*

§ 380-12.04. (Reserved)

§ 380-12.05. Clear vision areas.

No obstruction to vision (other than an existing building, post, column, grade, or tree) exceeding 36 inches in height shall be erected or maintained on any lot within the triangle formed by the right-of-way intersection and a line drawn between points along two rights-of-way lines 25 feet from the intersection.

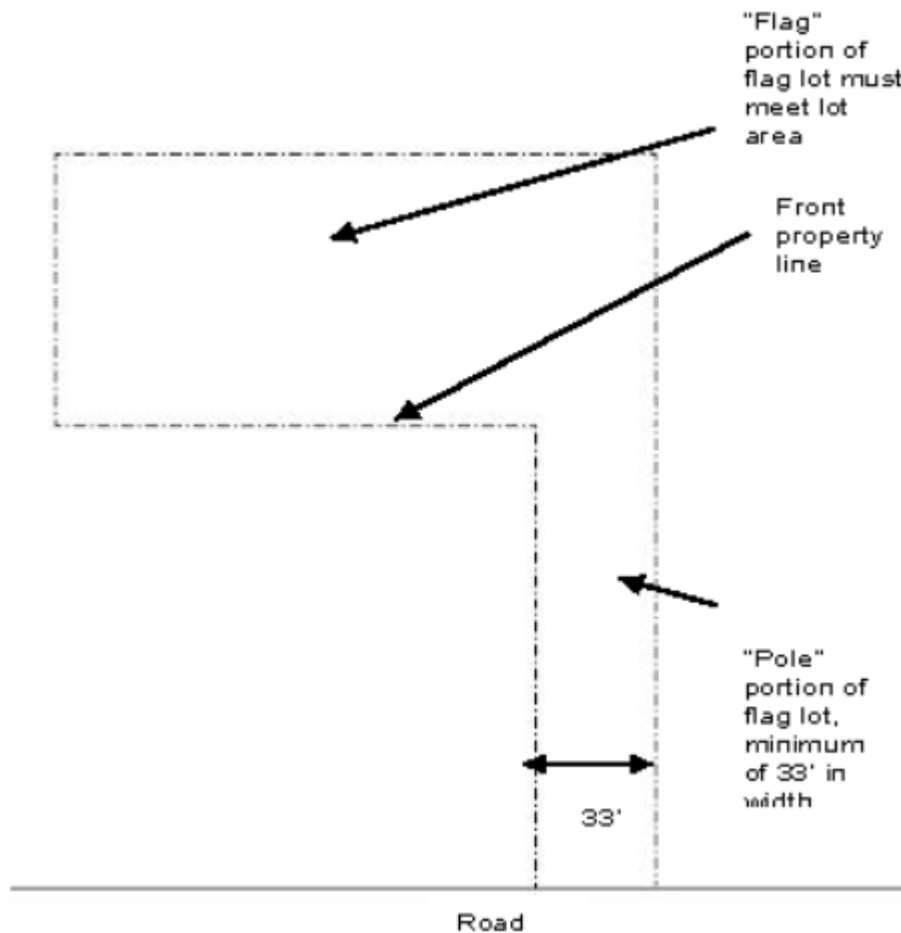


§ 380-12.06. (Reserved)

§ 380-12.07. Lots, land divisions, dimensional standards and building types.

- A. Lot dimensions and land divisions, property division requirements. No lot shall be further partitioned or divided unless such partition or division is first approved, pursuant to provisions of Chapter **205**, Land Division and Subdivision, as enacted by the Township Board. No lot or parcel shall be divided or partitioned unless the proposed resulting parcels meet all requirements of this chapter.
- B. Height. The height requirements of all zones, except the Industrial District, may be exceeded by parapet walls not over four feet in height, chimneys, roof-mounted television and radio antennas, wireless communication towers or antennas, cupolas, spires or other ornamental projections, or water towers. In the Industrial District, chimneys, cooling, dust collectors, wireless communication towers or antennas and other necessary appurtenances are permitted above the height limitations, provided they are located at least the same distance as their height from any adjoining property line and meet all other applicable requirements of this chapter.
[Amended 9-20-2017 by Ord. No. 6B]
- C. Duplicate building types. Not more than one dwelling of any standardized plan shall be erected within a single residential development within Three Oaks Township unless approved by the Planning Commission. A "standardized plan" is defined as follows:
- (1) Where the plan of a house is standardized and remains constant as to width and length.
 - (2) Where the volume of the house remains practically the same; changes made to a standardized plan where the width and length of the plan and the volume of the house are not substantially changed shall not be sufficient change to grant a permit.
 - (3) The adding to or subtracting from a standardized plan of small units, such as porches, bay windows, terraces, and other appurtenances, or changing or varying the slope or type of roof, or location or size of door and window openings, or changing or varying the style or design, or changing or varying the finish color of the exterior walls shall not be sufficient change to a standardized plan to warrant the granting of a permit for its erection in the Township.
- D. Nonconforming lots. Notwithstanding any other provision of this chapter, any nonconforming lot of record in existence as of the effective date of this chapter and which does not comply with the minimum area or width requirements of the zoning district in which it is located may be developed for residential purposes only if the structure is provided municipal utilities and the structure meets yard setback requirements of § 380-17.07.
- E. Required road frontage. Except as provided herein, no building shall be erected on a lot unless the lot fronts its full, required width upon a public road, an approved private road or a private access easement.
- (1) Flag lots. In the AG-RR District only, up to two flag lots may be created per parent parcel as defined by the Land Division Act, being Act 288 of the Public Acts of 1967,^[1] as amended. Flag lots shall meet the following requirements:
 - (a) Flag lots shall have no less than a combined total of 33 feet of frontage on a public or private street, and the narrow (pole) portion shall maintain that width up to the remainder (flag) of the lot (see graphic below).
 - (b) The remainder of the lot shall meet the lot width and area requirements for the district in which the lot is located and area of the narrow (pole) portion shall not be included in a determination of the minimum required lot area.

- (c) For the purposes of this chapter, the front property line of a flag lot shall be considered to be the line that is nominally parallel to the public or private street and shall extend the full, required width of the property.
- (d) Two flag lots created in the same parent parcel, as defined by the Land Division Act (being Act 288 of the Public Acts of 1967), shall either share a single driveway located in a perpetual easement to the benefit of both parcels, or be located such that each may have an individual driveway which shall be separated by at least 300 feet, measured along the center line of the public or private road from which they are accessed.
- (e) A flag lot accessed by a driveway in excess of 300 feet in length shall maintain an unobstructed turnaround area adequate for local fire and emergency vehicles.



[1] *Editor's Note: See MCLA § 560.101 et seq.*

- (2) Other uses. Manufactured housing communities, multiple-family developments, commercial shopping centers, combinations of uses, or office parks and planned unit developments do not need to have each building in the development meet this requirement, provided that adequate interior access and vehicular circulation is provided. All public and private road rights-of-way and access easements shall have a minimum width of 66 feet.
- F. Through lots. Where a through lot under single individual ownership extends from one street to another parallel or nearly parallel street or alley, the widest street frontage shall be deemed the street upon which the property fronts. If the frontage dimensions are equivalent, the Zoning Administrator shall determine the front lot line based on the configuration of the structure (if any) and the objectives of the landowner.
- G. Setbacks. Setback, or required yard, dimensions shall be measured as follows:
- (1) Front yard setback is measured perpendicular from the property line defining the subject property and the county road or street right-of-way.

- (2) Side yard setback is measured perpendicular from the side yard property line.
- (3) Rear yard setback is measured from the rear property line, either the rear line of another property or an alley right-of-way line.

§ 380-12.08. Fences.

All fences hereinafter constructed in Three Oaks Township shall conform to the following standards:

- A. Except as provided herein, construction of a fence shall require issuance of a zoning compliance permit issued by the Zoning Administrator prior to construction or erection of the fence. The following fences shall be exempt from this requirement:
 - (1) Fences associated with a farm operation or hobby farm in the AG-RR District.
 - (2) Decorative fences as defined herein.
- B. Fences regulated by this § 380-12.08 shall be constructed to present the finished outside fence appearance to adjacent property and public rights-of-way by either:
 - (1) Symmetrical construction having identical inside and outside face appearance, including main anchor posts and frame members.
 - (2) Offset construction with main anchor posts and horizontal and vertical frame members visible on the inside face only and vertical and horizontal face members or materials mounted on the outside surface of the frame and anchor post members.
- C. Fences shall not exceed four feet in height in the front yard and six feet in height located in the side or rear yard.
- D. Any form of electrified and/or barbed wire, barbwire, or single-strand wire fence or barrier is prohibited in all residential districts, except in the AG-RR Agricultural - Rural Residential District.
- E. Barbed wire, barbwire or any form of single-strand wire fence or barrier is prohibited in any commercial or industrial district except for the installation as cap wires on industrial-grade cyclone-type fence with a minimum height of six feet.
- F. Any fence erected or maintained in violation of this section shall be deemed a hazard to public health and welfare and shall constitute a violation of this chapter.

§ 380-12.09. Junk or inoperable cars, trucks or vehicles.

No property owner in any district may maintain, or allow to be maintained, any junk or inoperable cars, trucks, trailers, motorcycles, machinery or other similar equipment or vehicles on the premises in violation of Chapter **351**, Vehicles, Junk and Inoperable, of the Code of the Township of Three Oaks. Any vehicle not bearing a valid registration license plate shall be considered inoperable under the terms of this chapter.

§ 380-12.10. (Reserved)

§ 380-12.11. Landscaping standards.

Where required by the terms of this chapter or by the Planning Commission or Zoning Administrator in the conduct of its authorized responsibilities under this chapter, the following standards shall be used to govern landscaping requirements for developments in the Township.

- A. Required standards. The following table shall be applied to determine the standards of this section that shall apply to proposed developments:

Project Description	Landscape Plan Requirements
Single-family detached units with fewer than 10 units; all agricultural uses	None
Single-family detached units with at least 10 units but not more than 20 units	Minor landscape plan, per Subsection B hereof
Single-family detached units with 21 or more units, regardless of phasing, and mixed-use developments	Complete landscape plan, per Subsection C hereof
Multifamily projects of fewer than 20 units	Minor landscape plan, per Subsection B hereof
Multifamily projects of 20 or more units	Complete landscape plan, per Subsection C hereof
Commercial, office, industrial, or institutional development, including permitted uses and conditional land uses	Complete landscape plan, per Subsection C hereof, unless waived or modified pursuant to Subsection E hereof

- B. Minor landscape plan. A minor landscape plan shall include detail on any proposed entry feature, such as an identifying sign or boulevard, as well as any mechanism to preserve and protect any existing vegetation on the site. This may include limitations on tree removal, reforestation requirements, street trees and any specimen plantings. In addition, a minor landscape plan shall include a viable mechanism acceptable to the Planning Commission or Zoning Administrator to assure that the landscape plan will be implemented and maintained. Nothing in this section shall prohibit an applicant from providing additional detail or information as described in Subsection **C** hereof.
- C. Complete landscape plan. A complete landscape plan shall be prepared in accordance with the following standards.
- (1) A landscape plan required under the terms of this section shall be prepared by a registered landscape architect or by a qualified landscape designer. Such landscape plan shall provide, to the greatest extent possible, for the preservation and protection of existing natural features on the site. The landscape plan shall address at least the following items:
 - (a) An inventory of existing trees, wood lots, streams, lakes, wetlands, view sheds and other natural features of the site and detail on the measures proposed to preserve and protect such features.
 - (b) All proposed planting areas for grass, trees, shrubbery and other green space intended to protect the natural features and character of the site shall be illustrated in the landscape plan. Such illustration shall include the species proposed, the number of plantings, the size of such plantings, including the caliper (diameter at breast height) and height, irrigation measures proposed and related information.
 - (c) The location and nature of lighting, signs, utility fixtures, earth changes, streetscape and any other matter that affect the appearance of the site.
 - (2) In all developments other than single-family detached developments, all lots shall have a minimum of 25% of total lot area devoted to landscaped open space. Landscaped open space shall not include driveways and parking areas. To the greatest extent possible, existing trees over five inches diameter at breast height shall be retained and protected. Areas of a site plan intended for stormwater detention or retention shall only be included in such required minimum landscaped area if formally landscaped with shrubbery and turf and contoured such that no fencing shall be required.

- (3) All required site plans shall include the location of all existing trees having five inches or greater diameter breast height, identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. A cluster of trees standing in close proximity (three feet to five feet or closer) may be designated as a "stand" of trees, and the predominant species, estimated number, and average size shall be indicated.
 - (4) The area between the edge of the street pavement and property line, with the exception of paved driveways, sidewalks and parking areas permitted by this chapter, shall be used exclusively for the planting and growing of trees, shrubs, lawns, and other landscaping designed, planted and maintained to serve as a healthy and attractive amenity on the site.
 - (5) In the event a proposed development includes uses more intense in terms of noise, lighting, traffic, residential density or similar impacts than an existing adjoining use, the landscape plan shall include provision for plantings or other aesthetic screening to mitigate and lessen the potential impact on such adjoining land use.
 - (6) The applicant shall replace any trees, shrubbery or other plantings that fail to become established and remain viable for a period of two years following completion of all construction on the site. In accordance with § 380-16.05G, the Township shall require an irrevocable bank letter of credit, certified check or cash in an amount as determined by the Township, which shall be sufficient to assure the establishment of a viable landscaped area. In the event any of the landscaped materials do not become established and the applicant shall fail to provide a viable replacement, the Township shall utilize such irrevocable bank letter of credit, certified check or cash to install replacement landscaping materials. After two years of demonstrated viability of all landscape materials, the remaining balance, if any, of such irrevocable bank letter of credit, certified check or cash shall be returned to the applicant.
 - (7) All landscaped areas required pursuant to this section shall be equipped with a watering system capable of providing sufficient water to maintain plants in a healthy condition. Irrigation systems shall be maintained in good working order.
- D. Landscape standards. The following standards shall be met in the design, implementation and evaluation of landscape plans and installations.
- (1) Intent. The intent of this section 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 a critical element contributing to the aesthetics, development quality, stability of property values, and the overall rural character in the Township. The standards of this section are also intended to screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, minimize negative impacts of stormwater runoff, and promote the preservation of healthy, desirable trees. The landscape standards of this section 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.
 - (2) Parking lot landscaping shall be designed and installed in accordance with § 380-13.04.
 - (3) Buffers between uses. For nonresidential developments, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use a masonry wall or wooden privacy fence six feet in height, or between six feet and eight feet in height in industrial districts, or a totally obscuring landscape buffer or berm, at least partially comprised of evergreen trees, sufficient to provide adequate, year-round screening between uses for the purpose of protecting the quality and integrity of the residential use.
 - (4) Front yard landscaping. In addition to the provisions of § 380-13.04, where front yard parking exists or is proposed, a minimum of one deciduous tree shall be planted between the parking

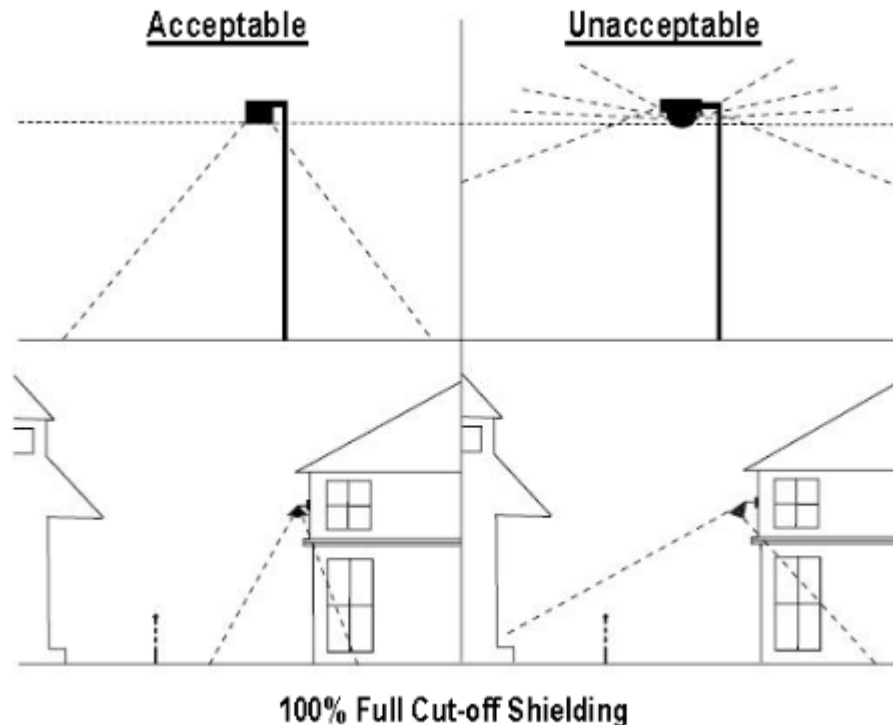
area and the street per every 30 feet of linear frontage. Base plantings, such as shrubs and perennials, shall be required along the front of the building. Additional front yard landscaping is encouraged and may be required by the Planning Commission where it is found that such additional landscaping would enhance and protect the Township's rural character.

- (5) Planting specifications. 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.
 - (a) Trees. Required trees shall be of the following sizes at the time of planting, unless otherwise stated in this chapter.
 - [1] Deciduous trees shall be two-and-one-half-inch caliper minimum trunk measurement at four feet off the ground, with a minimum eight feet in height above grade when planted.
 - [2] Evergreen trees shall be six feet in height above grade when planted.
 - (6) The following plant materials are not permitted for planting in a public right-of-way or as required by the minimum landscaping standards of this chapter due to susceptibility to storm damage, propensity for root clog of drains and sewers, susceptibility to disease or insect pests, or other undesirable characteristics, such as being an exotic invasive species: silver maple, box elder, thorned honey locust, ginkgo (female), mulberry, black locust, willow, Siberian elm, slippery elm and red elm, Chinese elm, horse chestnut, poplar, ailanthus, catalpa, Osage orange, cottonwood, European barberry, purple loosestrife, autumn olive, and Russian olive.
- E. Waivers. The Planning Commission may waive or modify any requirement of this section as not applicable to particular development circumstances and providing that such waiver does not detract from the aesthetics or quality of the natural environment of the Township.

§ 380-12.12. Outdoor lighting requirements.

- A. Intent and purpose. To maintain safe nighttime driver performance by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to sky glow, and to reduce light pollution from lighting luminaires and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans or plot plans submitted for approval under the terms of this chapter.
- B. General provisions.
 - (1) The following types of outdoor lighting shall not be covered by this chapter:
 - (a) Residential decorative lighting, such as porch lights, low-level lawn lights, lighting illuminating flags, and special seasonal lights, such as for Christmas decorating.
 - (b) Sign lighting as regulated by Article **XIV**.
 - (c) Lighting associated with detached single-family dwellings.
 - (2) The following types of lighting shall be regulated by this chapter:
 - (a) Parking lot lighting, building facade, and site lighting for commercial, industrial and institutional developments.
 - (b) Parking lot lighting, building facade, and site lighting for multiunit dwellings.
 - (c) Other forms of outdoor lighting that, in the judgment of the Planning Commission, are similar in character, luminosity and/or glare to the foregoing.

- (3) Lighting shall be designed and constructed in such a manner to:
- (a) Ensure that direct or directly reflected light is confined to the development site.
 - (b) Ensure that lamps and luminaires are shielded, hooded and/or louvered to provide a glare-free area beyond the property line and beyond any public right-of-way, and the light sources are not directly visible from beyond the boundary of the site.
 - (c) The light from any illumination source shall be designed so that the light intensity or brightness at any property line shall not exceed one footcandle.
 - (d) Lighting fixtures shall have 100% cutoff above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as illustrated below. No light fixture shall be mounted higher than 20 feet above the average grade of the site, except for approved outdoor recreation area lighting.
 - (e) Outdoor recreation area lighting may use standard color metal halide sources and standard sports-lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
 - (f) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon lights and searchlights are not permitted.
 - (g) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.



§ 380-12.13. Outdoor equipment and storage screening.

- A. Mechanical equipment and dumpster screening. Any mechanical equipment or dumpster, including, but not limited to, heating and air conditioning, dust collector, recycling or trash container, or similar equipment in the C-1 or I Zoning Districts, whether on a roof, the side of structure, or ground, and any loading docks, service yards, trash and storage areas, and utility services shall be properly screened from a public right-of-way, private road, or any adjoining residential use.

- (1) The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, shape, and size.
 - (2) The screening design and construction shall be subject to the approval of the Zoning Administrator or Planning Commission, when applicable, and shall blend with the design of the structures and include appropriately installed and maintained landscaping when on the ground.
- B. Outdoor storage. In addition to other provisions of this chapter, every application for a site plan or building permit in the C-1 Commercial and I Industrial Zoning Districts shall provide a plan for outdoor material storage and screening so as to eliminate unsightly open storage of material equipment and supplies. Each application shall also provide for appropriate landscaping pursuant to § 380-12.11. All screening shall comply with the following standards:
- (1) Adequate screening shall consist of a six-foot-high solid fence, or similar visual screen of suitable shrubs, spaced at intervals of not more than four feet, maintained within 15 feet of the property line separating the uses.
 - (2) All fences, hedges, walls, and shrubs must be maintained in good condition. No advertising shall be permitted on fences adjoining residential districts.
 - (3) Fences, walls, and hedges under six feet may be located in any yard or court, except as regulated by § 380-12.05.
- C. Modifications or waivers. The Planning Commission may modify or waive the requirements of this section or approve alternatives to the screening methods if it finds the characteristics of the site or vicinity would make the requirements unnecessary or the alternative will achieve the same effect.

§ 380-12.14. Parking of certain vehicles prohibited in residential districts.

- A. Heavy vehicles. Motor vehicles, specifically trucks having with a weight limit in excess of 12,000 pounds gross vehicle weight and being greater than 80 inches in height, semitractors, tractor-trailer combinations or trailers of any kind or type shall not be parked or stored in the R-1, R-2, R-3 or R-4 Zoning Districts other than within a completely enclosed structure.
- B. Recreation vehicles.
- (1) Emergency or temporary parking in any street, alley or highway of a travel trailer, boat, motor home, camping bus, or any similar vehicle, boat trailer or vehicle licensed to operate on the public highways or trailer for such vehicle will be permitted for a period not to exceed 24 hours subject to any other and further regulations or ordinances for that street, alley or highway.
 - (2) The storage of recreational vehicles in any residential zoning district shall only be allowed when in compliance with the following conditions:
 - (a) An unoccupied travel trailer, boat, motor home or other camping vehicle (including trailers or any similar type vehicles) and any boat trailer or other similar recreational vehicle not licensed to operate on the public highways or trailer for such recreational vehicles may be stored on a vacant lot so long as it is situated on the rear of such lot and at least three feet from any other structure and the side or rear property line.
 - (b) The storing of any unoccupied recreational vehicle, as defined in Subsection **A**, in any zoning district outside a commercial sales lot located in any commercial or industrial zoning district is expressly prohibited without first securing the approval of the Planning Commission.
 - (c) Nothing in this section shall be construed as prohibiting the owner or occupant of any parcel of land located in a residential zoning district to store an unoccupied travel trailer,

boat, motor home, camping bus or any similar recreational vehicle, or a boat trailer or vehicle licensed to operate on the public highway or trailer for such recreational vehicle, where such vehicles are owned by the property owner or occupant, so long as it is situated on the rear of such lot and at least three feet from any other structure and the side or rear property line.

- (3) The occupancy of travel trailers for more than 72 hours as a temporary dwelling is prohibited.

§ 380-12.15. (Reserved)

§ 380-12.16. Placement and removal of trash/garbage receptacles.

No residential or business operation or activity shall cause to be placed alongside the street any trash, garbage, recycling container, bin or any other receptacle used for the disposal of any matter prior to the evening of the day before a scheduled trash/garbage pickup. All trash, garbage or recycling containers, bins or any other receptacle used for the disposal of any matter shall be retrieved from the side of the street or road by sundown on the day of the scheduled garbage/trash pickup.

§ 380-12.17. Private roads.

- A. Limitations on private roads in the AG-RR District. In the AG-RR District, private roads may be considered to serve legal land division, residential subdivisions or condominium subdivisions where the Planning Commission finds:
- (1) The parcels to be served by the private road are without important natural features nor do they include prime or unique agricultural soils.
 - (2) The proposed private road will be no more extensive than necessary to provide access to lots in a proposed development and will not be designed for future extension.
 - (3) The area of the lots to be served by the private road shall be no greater than necessary to result in a usable parcel of the lesser of one acre or an area sufficient for a residence with on-site water and wastewater system.
- B. Permitted private roads. Private roads shall be permitted only within the following types of developments:
- (1) Residential developments containing single-family dwellings, attached multiple-family dwellings, such as attached condominiums, apartments and other similar multiple-family residential developments, such as retirement communities consisting of attached dwelling units; and
 - (2) Multiple-building commercial and/or office developments; multiple-building industrial developments.
- C. Design and construction requirements. All private roads shall be designed and constructed in accordance with the following minimum design, construction, inspection, approval and maintenance requirements:
- (1) The private road easements shall be at least 66 feet in width.
 - (2) The area in which the private road is located shall have a minimum cleared width of 30 feet and a minimum cleared height of 15 feet.

- (3) All private roads which provide access to three but not more than seven lots shall be designed, constructed and maintained pursuant to the illustration depicted on Exhibit A hereto; provided, however, that any private road that extends for a distance of greater than 1,320 feet measured along the center line of such road shall be designed, constructed and maintained pursuant to the illustration depicted on Exhibit B hereto.^[1]

[1] *Editor's Note: Exhibit A, Minor Private Road, and Exhibit B, Major Private Road, are included as attachments to this chapter.*

- (4) All private roads which provide access to eight or more lots shall be designed, installed and maintained pursuant to the illustration depicted on Exhibit B hereto.
 - (5) The private road surface shall have a minimum crown of 2/10 foot from the center line of the road to the outside edge thereof.
 - (6) The maximum longitudinal road grade shall not exceed 6%, provided the Township may allow up to a 10% grade if the Township is satisfied that such an increase in road grade will not adversely affect public safety or cause undue erosion.
 - (7) A private road shall be constructed so as to sufficiently control stormwater runoff, by means of seepage basins, culverts and drainage contours and/or by such other effective methods as may be required by the Township Engineer, so as to ensure adequate drainage and control of stormwater runoff.
 - (8) The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course, by a private road, shall satisfy the requirements of the Township Engineer and any other governmental agency having jurisdiction.
 - (9) All lots or parcels utilizing a private road shall have frontage on the private road that is equal to the frontage requirement for the zoning district in which the lot is located.
 - (10) All private roads shall have a recorded permanent right-of-way or easement. The right-of-way or easement shall expressly permit public utilities to be installed, operated and maintained within the right-of-way, and shall be in form and substance approved by the Township Attorney.
 - (11) The layout of the private road and the intersections of the private road with either a public or private road shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is reasonably assured. The minimum distance between intersections of a public and/or private road right-of-way shall not be less than 150 feet, as measured along the right-of-way lines thereof.
 - (12) All private roads shall be named and identified by use of appropriately located road name signs. Road names shall not duplicate or be substantially similar to any existing road name in the county, except in the case of the continuation of an existing road. All lots fronting on a private road shall have an address on the private road. The address number of each dwelling shall be displayed in the manner such that it is readily visible from the private road, and each of the numbers shall be at least three inches in height.
 - (13) A stop sign conforming to the requirements of Berrien County Road Commission shall be provided at each exit point from the private road to the public road.
 - (14) All private roads, whether new or existing, shall at all times be improved, maintained, repaired and snowplowed so as to ensure that the private road is safe for travel at all times and so that suitable access is provided for emergency vehicles, in addition to meeting the specific standards stated in this section. All persons who own property which abuts a private road are jointly and severally responsible for compliance with this requirement.
- D. Private road application. No private road shall be established, extended, modified or relocated except in compliance with this chapter. For purposes of this chapter, the phrase "establish, extend, modify or relocate" shall be interpreted to include, but shall not be limited to, the lengthening,

expansion or broadening of the physical size of a private road or an increase to the number of lots accessed by such private road. An application to establish, extend, modify or relocate a private road shall be filed with the Zoning Administrator and shall include, in addition to the information required by Article **XVI**, Site Plan Review, of this chapter, the following information:

- (1) The name(s), addresses and telephone numbers of the owners and any other parties having any legal interest in the private road and the property across which it is to be constructed, along with the permanent parcel numbers(s) of all lots and parcels to be accessed by the private road.
- (2) A drawing(s), prepared and sealed by a professional engineer and/or surveyor licensed by the State of Michigan, with a scale not less than one inch equals 200 feet, containing the following information:
 - (a) Location, route, elevations, dimensions of the private road in accordance with the standards of this section.
 - (b) Proposed extensions of the private road.
 - (c) A layout, including dimensions, of the parcels to be served by the private road, including parcels to be accessed by future extensions.
 - (d) The location where the private road is to intersect with any public road.
 - (e) The location of all public utilities, including but not limited to water, sewer, telephone, gas, electricity and television cable, to be located within the private road right-of-way or within 20 feet either side thereof.
 - (f) The location of any lakes, streams and drains within the proposed private road right-of-way or within 100 feet thereof.
 - (g) A detail of the private road cross section in compliance with the standards imposed herein.
- (3) A copy of the recordable legal instrument(s) describing and granting the private road easement(s).
- (4) A copy of a recordable private road maintenance agreement or restrictive covenant that contains the following:
 - (a) Provisions that assure the private road will be maintained, repaired and snowplowed for the full width of the roadway in accordance with the standards of this section and in a manner to assure the private road is safe for travel at all times.
 - (b) Provisions that assure that the costs of maintenance of the private road and its easement are paid for in an equitable manner.
 - (c) A legal description of the private road easement and a legal description of the individual properties to be accessed by the private road as of the date of recording.
- (5) The applicant shall agree, in writing, that it will assure that any properties then existing or thereafter created which are accessed by the private road shall be subject to the road maintenance or restrictive covenant agreement and that said agreement shall be recorded and run with the land. A copy of said agreement shall be furnished to the Township Attorney prior to recording. Prior to recording, the road maintenance or restrictive covenant agreement shall be revised to address comments provided by the Township Attorney. A recorded copy of the final road maintenance or restrictive covenant agreement shall be provided to the Building Inspector and Township Attorney by the applicant before any building permit is issued for any property accessed by the private road.
- (6) The applicant shall agree, in writing, that by applying for and securing a permit to construct the private road, it shall indemnify, save and hold the Township, and its officers, employees

and agents, harmless from any and all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private road. This indemnification shall be included in the maintenance agreement recorded for the private road, and the duty to indemnify the Township shall be delegated to subsequent property owners.

- (7) A soil erosion and sedimentation control permit as issued by the Drain Commissioner or other agency having jurisdiction, if applicable.
- (8) A driveway permit issued by the Road Commission and approval from the Road Commission of the proposed road name.
- (9) Permit and escrow fees in the amounts periodically established by resolution of the Township Board.
- (10) The name of the applicant's private road construction contractor and a statement of the contractor's experience in road construction.

E. Procedures for review of a private road application.

- (1) An application for a private road shall be submitted to the Zoning Administrator, who shall forward the same to any Township planning, engineering or legal consultants for their comments. If the application is complete, the Zoning Administrator shall forward the application to the Planning Commission, together with the comments thereon from the Township Planner, the Township Attorney and the Township Engineer. If the application is not complete, the Zoning Administrator shall return the application to the applicant with a written explanation of the deficiencies or omissions to be corrected.
- (2) After receipt of a complete application from the Zoning Administrator, the Planning Commission shall consider such application at a public meeting and shall conduct a public hearing. Notice for the public hearing shall be made pursuant to § 380-21.06 of this chapter. If the private road is included in a proposed planned unit development, special land use, site condominium or other land development requiring Planning Commission consideration, then the Commission may consider approval of the private road as a part of the consideration for that development.
- (3) The Planning Commission shall review the application for the private road, and shall not recommend the approval of the application to the Township Board of Trustees unless each of the following standards has been satisfied:
 - (a) The proposed private road complies with all requirements of this section and other applicable provisions of this chapter.
 - (b) The proposed private road will not create conditions which may be detrimental to the health, safety or welfare of persons or property through their creation of hazardous or potentially hazardous situations.
 - (c) The Township may consult with the Township Planner, the Fire Chief, Attorney, Engineer, Building Inspector and/or the Zoning Administrator, as deemed appropriate, in its consideration of a private road application.
- (4) The Planning Commission may recommend and the Township Board of Trustees may require that the applicant complies with reasonable terms and conditions relating to the placement, design, construction and use of the private road, consistent with the terms of this section and other applicable provisions of this chapter. The Township Board of Trustees need not follow the recommendations of the Planning Commission and may impose fewer or additional conditions as it deems necessary and appropriate to enforce the terms of this chapter.
- (5) Following review and approval of a proposed private road by the Township, the Township Building Inspector may, upon the recommendation of the Township Engineer, determine whether to issue a construction permit for the private road.

- (a) No private road shall be constructed until the construction permit has been issued.
 - (b) In determining whether to issue a construction permit, the Building Inspector, or his or her designee, shall consider the approval of the private road by the Township, whether the private road can be constructed safely and without adverse effects upon adjacent or nearby lands or property interests and whether the private road meets the design standards of this section.
 - (c) In issuing a private road construction permit, the Building Inspector, or his or her designee, may impose such conditions as will assure compliance with the terms of this section.
- (6) As a condition of approval of a private road and the issuance of a construction permit therefor, the Township may require that the applicant provides a performance bond with an acceptable surety, or a letter of credit, conditioned upon the timely and faithful performance by the applicant under the terms of this section and under the terms and conditions of any approval given for the private road.
- (7) Neither the Township's approval of a private road nor the Building Inspector's issuance of a construction permit for a private road constitutes authorization for the construction or occupancy of a structure that will be served by the private road.
- F. Certificate of compliance.
- (1) Upon completion of construction of a private road, the Building Inspector, or his or her designee, shall inspect the completed construction to determine whether it complies with the approved plans and specifications for the road, the approval given therefor by the Township and Building Inspector, and the terms of this section and other applicable provisions of this chapter.
 - (2) The applicant shall provide the Township with a set of as-built drawings bearing a certificate and statement from a registered engineer, certifying that the private road has been completed in accordance with the requirements of this section and other provisions of this chapter and with the terms of approvals given by the Township and Building Inspector.
 - (3) After receiving the certified as-built drawings and following the Building Inspector's review of the completed construction, the Building Inspector may issue and submit to the applicant a certificate of compliance, stating that, based upon the inspection of the construction, the private road complies with this section, other applicable provisions of this chapter and the Township and Building Inspector approvals. If, however, the completed private road does not satisfy the requirements of this section, other applicable provisions of this chapter or approvals given by the Township and/or Building Inspector, the Building Inspector shall notify the applicant, in writing, of such noncompliance and shall provide the applicant a reasonable period of time in which to correct the stated deficiencies. The Building Inspector may issue a certificate of compliance once the deficiencies have been corrected.
- G. Building and occupancy permits.
- (1) No building permits or other permits shall be issued for any dwelling or other building, structure or use, the primary access to which is to be provided by a private road, until the private road has been approved in accordance with this chapter and until a private road construction permit and a certificate of compliance have been issued, except as stated in Subsection **F** hereof.
 - (2) An occupancy permit for a dwelling or other building, the primary access to which is to be provided by a private road, shall not be issued until the private road has been laid out and constructed in accordance with the requirements of this § 380-12.17 and with the terms of approvals given by the Township.
- H. Existing private roads. The provisions of this section shall apply to any extension, modifications, or relocation, as defined in Subsection **D** hereof, of any existing private road or driveway to provide

access to three or more lots.

§ 380-12.18. Recycling centers (junkyards).

No person, firm or corporation shall operate a recycling center/operation, store, dump, or cause to be dumped any garbage, tin cans, papers, automobile vehicles or truck bodies or parts, machinery, stoves, refrigerators, junk, movable structures, or waste materials of any kind on any land, private or public, situated in the Three Oaks Township unless such place has been licensed as a state solid waste management site.

§ 380-12.19. Temporary activities.

The Township Board may issue permits for the temporary use and occupancy of property for uses not otherwise provided for in this chapter (carnivals, special events, flea markets, environmental testing devices) and which do not require the erection of any structures requiring foundations or connection to public water or sewer. For the purpose of this section, a temporary activity shall not extend for more than six months in any year. There shall be no minimum duration for a temporary activity; provided, however, that sales of personal items from a private residence or church, such as garage or yard sales, shall not be considered a temporary activity if such sale does not extend for more than three days in any ninety-day period.

- A. Temporary activities shall only be permitted in the C-1 District
- B. The Township Board shall issue temporary activity permits in response to a properly completed application, if it finds that such activity shall:
 - (1) Conform with applicable minimum development standards, including but not limited to setbacks, off-street parking and loading, and signs;
 - (2) Maintain adequate setbacks between stalls, fixtures and equipment to allow emergency access;
 - (3) Be compatible with the physical character and the use of nearby properties;
 - (4) Not adversely impact the public health, safety, and general welfare of the Township, its residents and businesses.
- C. The Township Board shall establish a definite time limit for the existence of any such temporary use, which shall not exceed six months.
- D. The Township Board may establish conditions upon the approval of a temporary activity permit, including establishment of a definite time limit for the existence of any such temporary use, which shall not exceed six months

§ 380-12.20. Unclassified uses and features.

While not specifically classified in this chapter as a permitted use, it is recognized that some uses may be sufficiently similar to uses listed as permitted by right that the Planning Commission may consider such unlisted uses as being of a similar character and warranting similar regulation as such uses. In such event, the terms of this section shall be applied.

- A. Upon application, the Planning Commission shall consider an unclassified use as sufficiently similar to a classified permitted use when it finds that such unclassified use will be similar in character and impact to a classified use in terms of:
 - (1) The generation of traffic and congestion.

- (2) The production of noise.
 - (3) The production of fumes or odors.
 - (4) The production of dust or other debris.
 - (5) The consistency with the intent of the district in which it is located.
- B. Where a proposed use of land or use of a building is not expressly authorized, contemplated or named by this chapter in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use that involves other features which are not expressly authorized, contemplated or specified in this chapter, the Zoning Administrator may determine that the use is unclassified. In the case of an unclassified use, an amendment to classify, permit and regulate the use may be initiated pursuant to Article **XX**, Amendments. Unclassified uses may not be treated as a special land use.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- C. Features not contemplated. Where a proposed use, while classified in this chapter, incorporates elements, services or features that are unusual and not contemplated in this chapter, the Planning Commission shall evaluate such elements, services or features and determine whether their effect is to render the use itself sufficiently unique to be considered a separate land use. In reaching such an evaluation, the Planning Commission shall consider any impacts on surrounding properties that may result from such elements, services or features that are unusual and not contemplated in this chapter. If the Planning Commission finds that such impacts on surrounding properties will significantly exceed those that would otherwise be expected from the classified use, such use shall be prohibited.
- D. Nothing in this § 380-12.20 shall be construed to prohibit a future amendment of this chapter pursuant to Article **XIX** or **XX** to provide standards to regulate a land use that may be currently excluded.

§ 380-12.21. Site condominiums.

Site condominium developments shall be regulated in the same manner as plats developed pursuant to the Land Division Act^[1] and in accord with Chapter **205**, Land Division and Subdivision.

[1] *Editor's Note: See MCLA § 560.101 et seq.*

§ 380-12.22. Conservation subdivisions.

Detached single-family conservation subdivisions, as defined herein, shall conform to the provisions of Chapter **205**, Land Division and Subdivision, the site plan review provisions of Article **XVI** and the provisions of this section. A conservation subdivision shall be the preferred design approach for any residential subdivision in Three Oaks Township and shall be a use permitted by right in the R-1, R-2, R-3 and R-4 Zoning Districts. In the AG-RR Zoning District, a conservation subdivision may be allowed subject to the provisions of § 380-15.27.

- A. Minimum open space requirement. The development density which would normally be realized on the entire parcel shall be transferred to the area of the parcel which is not the 50% area of the parcel, which shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means.
- B. Determining maximum number of lots. The maximum number of new lots which may be created within the parcel shall be the same number that would be permitted on the site under the provisions of the zoning district. To determine this density, the applicant shall either:
 - (1) Submit a conceptual plan of division of the parcel. This conceptual plan shall contain proposed parcels, roads, rights-of-way, areas which are not in the buildable area, and other

- pertinent features, in compliance with Township ordinances and stipulations. This plan must be drawn to scale; or
- (2) Multiply the buildable area of the parcel, as defined herein, by 85% to account for rights-of-way, and divide the result by the minimum parcel area in the zoning district.
- C. Open space standards. Open space areas shall include irreplaceable natural features located in the tract (such as, but not limited to, stream beds and significant stands of trees). It is intended that this space be for recreation or use by the lot owners within the development and should be easily accessible to pedestrians. Such permanent open space shall be determined through the preparation and submittal of a detailed site analysis which shall identify native soils, water features, wetlands, topography, vegetation, wildlife corridors, views to water and prominent meadows from off site, steep slopes (in excess of 20%) and other unique or aesthetic features.
- (1) Based on the site analysis, the applicant shall identify the portion of the parcel to be maintained in the perpetually undeveloped state, incorporating features in the following order of priority, to the greatest extent possible:
 - (a) Surface water.
 - (b) Regulated wetlands.
 - (c) Hardwood forests.
 - (d) Unregulated wetlands.
 - (e) Viewsheds to prominent meadows or woodlands.
 - (f) Slopes in excess of 20%.
 - (2) Lands running parallel to an existing public road adjoining the parcel to a depth of not less than 30 feet shall be included within the preserved open lands and shall be maintained as natural woodlands. If such lands do not include existing forest, the applicant shall commit to a reforestation plan, sufficient to provide visual screening to the development, within not more than 10 years.
 - (3) Any portion of the open space with a least dimension of less than 50 feet shall not be considered a part of the open space for the purpose of determining the required 50% provided in this section.
 - (4) Lands to be included within permanently dedicated open space may not include areas containing or impacted by gas or oil wells, personal wireless communication facilities, electrical transmission lines or similar elements; but may include detention or retention facilities if designed to reflect a natural wetland.
- D. Application and site plan review process. A conservation subdivision shall be processed in accordance with Article **XVI**, pertaining to site plan review, and Chapter **205**, Land Division and Subdivision.

Article XIII. Off-Street Parking and Loading

§ 380-13.01. Number of off-street parking spaces required.

For each principal building or establishment hereafter erected or altered and located in any zoning district, including buildings and structures used principally as places of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown below.

- A. Uses in general.

Use	Number of Parking Spaces Per Unit of Measure
Dwellings	2 spaces for each dwelling unit for single family, and 2-unit attached
Townhomes/multifamily	2 per dwelling unit
Hotels, motels and bed-and-breakfasts	1 space for each room
Hospitals, nursing and personal care facilities	1 space for each 4 beds, and 1 space for each employee
Places of public assembly	1 space for each 4 seats of legal capacity
Medical clinics and medical and dental offices	3, and 1 space for each 285 square feet of office space
Offices, other than medical or dental clinics, including financial institutions	1 space for each 250 square feet of office space
Eating and drinking establishments	1 space for each 3 seats of legal seating capacity
Retail establishments	1 space for each 450 square feet of floor area dedicated to retail activity, exclusive of storage areas
Industrial and warehouse uses	The greater of 1 space for each 1,000 square feet of floor area, or 1 space for each employee in the largest shift
Theaters	1 space for each 4 seats
Funeral home/mortuary	1 space for each 100 square feet of floor area used for services

- B. Uses not listed. In the case of uses or businesses not addressed in Subsection **A** hereof, the required parking shall be determined by the Zoning Administrator, subject to Planning Commission concurrence. The latest edition of the Institute of Traffic Engineers' Parking Generation shall be consulted in determining a parking requirement for any such use or business.

§ 380-13.02. Parking dimensions.

The minimum dimensional standards for parking spaces and aisles shall be as follows:

Minimum Parking Space and Maneuvering Lane Standards						
Parking Pattern	Lane Width		Parking Space		Total Width of Two Tiers Plus Lane	
	One-Way (feet)	Two-Way (feet)	Width ⁽¹⁾ (feet)	Length ⁽²⁾ (feet)	One-Way (feet)	Two-Way (feet)
Parallel	11	18	9	23	40	36
30° to 53°	12	20	9	19	50	56
54° to 74°	13	24	9	19	51	57
75° to 90°	15	26	9	18	51	56

(1) Measured perpendicular to the space center line.

(2) Measured along the space center line.

§ 380-13.03. Location of parking.

- A. The approval of the Berrien County Road Commission shall be obtained for the location of exits and entrances to parking areas and for the design and construction thereof.
- B. The off-street parking facilities required for single-family dwellings, two-unit dwellings, multiunit dwellings and townhomes shall be located on the same lot or parcel of land as the buildings they are intended to serve.
- C. Parking facilities for manufactured housing communities shall be located on each manufactured home site, or in parking lots within 300 feet from the entrance to manufactured homes.
- D. Parking facilities for commercial or industrial uses shall be located on the same lot or parcel of land as the buildings they are intended to serve.
- E. Parking areas shall not be provided within any setback area or transition strip.

§ 380-13.04. Parking design and landscaping.

- A. Required surface. Off-street parking areas for uses in all districts, except AG-RR, shall be paved with concrete or bituminous material or other approved, dust-free surfaces and provided with approved curbing or other effective stormwater control structures and painted parking-space lines.
- B. Landscaping. Parking areas with 10 or more spaces shall include landscaped planting islands and perimeter buffers in accordance with § 380-12.11, as augmented by the following requirements:
 - (1) When off-street parking and loading areas abut the R-1, R-2 or R-3 Districts, or a residential PUD, the parking lot and loading area shall be screened from the residential uses by a solid, ornamental masonry wall or fence at least four feet tall meeting the requirements of § 380-12.08, Fences, in addition to following requirements for landscape plant materials:
 - (a) In lieu of a wall, the Planning Commission may permit or require one evergreen tree at least five feet in height planted every 10 feet in staggered rows along the adjacent residential property boundary.
 - (b) In lieu of a wall, berming may be installed that shall reduce the amount of required landscaping material by 20%.
 - (2) In addition to required screening around off-street parking and loading areas, all off-street parking areas containing greater than 10 spaces shall provide the following landscaping within the "parking lot envelope," described as the area including the parking lot surface and extending 18 feet from the edge of the parking lot.
 - (a) Two canopy trees shall be required for each 900 square feet of the total of the paved driveway and parking lot surface. At least 40% of the landscape material required shall be installed in landscape islands within the paved parking lot area.
 - (b) Landscaped areas in and around parking lots shall be no less than 10 feet in any dimension and no less than 150 square feet in area per tree. Landscaped areas shall be protected with curbing or other means to prevent overhang encroachment of vehicles.
 - (c) Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
 - (d) Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area. Landscaping shall be installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, interfere with adequate sight distance for motorists, nor disrupt drainage patterns on the site or adjacent properties.

- (e) Landscaped areas shall be covered by grass or other living ground cover. Wood chips or similar material, a minimum depth of three inches, is permitted for planting beds immediately surrounding plant material. Such material should be identified on the landscape plan and/or site plan.
- C. Recreational vehicle (RV) storage. Parking areas required under this section to serve other land uses shall not be used for the storage of, camping within, or continuous parking or storage of recreational vehicles, trailers, motor vehicles and junk for more than a twenty-four-hour period.
- D. Shared parking. Within the C-1 and I Districts, the Planning Commission may approve shared parking arrangements among various uses when it can be demonstrated that parking in sufficient quantities for all such uses as set forth in this section shall be available at all times.
- E. Excess parking. In no instance shall the number of spaces provided exceed the number of spaces required by this article; provided, however, snow storage areas may be provided so long as the area designated for snow storage does not exceed 20% of the surface area of a parking lot.
- F. Accessibility. All parking areas shall meet the requirements of the Americans with Disabilities Act.
[1]
[1] *Editor's Note: See 42 U.S.C. § 12101 et seq.*
- G. Interconnection. In the C-1 Commercial District, adjoining parking lots shall be designed to interconnect to enable motorists to safely move between parcels without needing to return to the public road network. Such interconnections shall be established by mutual cross-access easement agreements between the property owners and shall be established at the time of site plan approval. Such cross-access easements may be established by both landowners simultaneously or one at a time as site plan review occurs on one of the lots.

§ 380-13.05. Residential garages; covered parking; parking pad required.

All residential subdivisions and lot divisions created within any residential zoning district shall provide a minimum of a one-car parking pad or enclosure, covered parking space or garage, the location of which shall be limited to the side or rear yard, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress/egress as approved by the Zoning Administrator.

§ 380-13.06. Loading areas.

- A. In all districts, every building or part thereof hereafter erected which is to be occupied for manufacturing, storage, retail sales, warehousing, wholesale sales, or a hotel, hospital, mortuary or laundry, or uses similarly requiring the receipt or distribution in vehicles of materials or merchandise shall provide and maintain, on the same premises, paved off-street loading spaces in relation to floor area as follows:
- (1) Up to 20,000 square feet equals one space.
 - (2) Twenty thousand one square feet to 50,000 square feet equals two spaces.
 - (3) Fifty thousand one square feet to 100,000 square feet equals three spaces.
 - (4) One additional space for each additional 100,000 square feet or part thereof.
- B. The following shall apply with regard to off-street loading and unloading spaces:
- (1) Each loading space shall be at least 10 feet in width, 25 feet in length, and 14 feet in height.
 - (2) Such space may occupy all or any part of any required side or rear yard.

- (3) No such space shall be located closer than 50 feet to any residential use unless within a completely enclosed building or enclosed on all sides by a wall or fence not less than six feet in height.
- C. Such loading spaces shall be considered separate and distinct from required off-street parking areas but shall be constructed of a hard surface material.

Article XIV. Signs

§ 380-14.01. Intent.

It is the intent of this article to regulate signs in Three Oaks Township so as to protect public health and safety and to promote the public welfare. This is accomplished by regulating the size, placements, relationship, construction, illumination, and other aspects of signs in Three Oaks Township.

§ 380-14.02. Purpose.

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

The purpose of these regulations is to:

- A. Protect the public health, safety and welfare of residents and visitors and to protect the natural beauty and distinctive character of Three Oaks Township.
- B. Protect all zoning districts from visual clutter.
- C. Eliminate distractions hazardous to vehicular traffic.^[1]
 [1] *Editor's Note: Original Subsection 4 of Sec. 14.02, regarding protection from too many and too-large signs, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- D. Provide ability for the public to identify premises and establishments.
- E. Encourage creativity of sign design.
- F. Enhance the aesthetics of the community.
- G. Prevent signs which are potentially dangerous to the public due to structural deficiencies or disrepair.

§ 380-14.03. General provisions for signs.

- A. All signs, in addition to the requirements of this chapter, must comply with the adopted building and electrical codes of Three Oaks Township.^[1]
 [1] *Editor's Note: See Ch. 135, Construction Standards and Enforcement, Arts. I and II.*
- B. Sign area. The area of a sign shall be measured within a single, continuous perimeter composed of any straight-line geometric figure which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces and uprights of the sign.
- C. Sign setbacks. Signs in any residential district shall be set back a minimum of 1/2 the minimum required front yard setback. All signs in the Commercial or Industrial Districts shall be set back a minimum of two feet from the property line or right-of-way line, whichever is greater; provided, however, no sign shall be located where, in the opinion of the Zoning Administrator, it will obstruct clear visibility.

- D. Height. The height of the uppermost portions of ground-mounted signs shall not exceed eight feet in height in all districts except the AG-RR, R-1, R-2, R-3 and R-4 Districts, where the uppermost portions of such signs shall not exceed six feet.
- E. Illumination. Internally lit and externally lit signs shall comply with the following requirements:
- (1) Illumination shall not be flashing, blinking, intermittent or an on-and-off type of lighting.
 - (2) Externally provided illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way, road or street easement or from any land in a residential district or used for residential purposes.
 - (3) External lighting of signs shall be downward facing or directed at the sign face.
 - (4) Signs in the AG-RR, R-1, R-2, R-3, and R-4 Districts shall not be illuminated, except for signs allowed for places of public assembly, educational facilities, public and semipublic uses, and governmental offices.
 - (5) Maintenance. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and are subject to inspection by the Zoning Administrator or designated representative. A sign which no longer serves the purpose for which it is intended, is abandoned, or is not maintained in accordance with applicable regulations of Three Oaks Township shall be removed by the owner, or by the Township at the expense of such owner, upon notice by Three Oaks Township.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (6) Any double-sided sign in which the parallel faces are more than 24 inches apart will be considered individual signs, and the square footage of each face will be considered for the total sign area.
 - (7) Wall signs. A wall sign shall not extend beyond 10 inches from the surface of the wall to which it is affixed. Sign elements shall not project above the roofline.
 - (8) Changeable copy signs. All ground-mounted signs may include attached changeable copy signs, which shall be included in the area calculations of permitted sign area.
 - (9) Electronic message boards. Electronic message boards are permitted in only the C-1 District when part of a ground-mounted sign only. The area of an electronic message board shall be included in the area calculations of permitted sign area; provided, however, that the area of any electronic message board shall not exceed 30 square feet.
 - (10) Covering. Covering around a pole of an existing pole sign shall be permitted and limited in width to a width of not more than 30% of the total width of the sign. Signage or copy shall not be permitted on pole coverings.
 - (11) Billboards. Billboards, as defined in the Highway Advertising Act of 1972 (1972 PA 106)^[2] and located within the C-1 and I Districts bordering interstate highways, freeways or primary highways as defined in said Act, shall be regulated and controlled by the provisions of such statute, notwithstanding any contrary provisions of this chapter.
^[2] *Editor's Note: See MCLA § 252.301 et seq.*

§ 380-14.04. Ground-mounted signs.

- A. Materials. Ground-mounted signs shall be constructed of wood, brick, concrete, stone (or equivalent imitation stone), corrosion- and rust-resistant metal or other similar material as approved by the Zoning Administrator or Planning Commission.
- B. Landscaping. A landscape area around the base of a ground-mounted sign shall be provided and shall not obscure visibility of the sign itself, nor encroach into the clear sight area.

§ 380-14.05. Temporary signs.

- A. Display of any temporary sign shall be limited to 30 days in advance and the day of the event up to four times during any twelve-month period; provided, however, that temporary signage located on property containing an agricultural roadside stand and/or sale of product grown on site may continue through the growing season, provided it meets the other provisions of this chapter.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- B. Temporary signs shall be secured at every corner.
- C. Temporary signs and any sign supports shall be removed upon expiration of a temporary sign permit.
- D. There shall be not more than one temporary sign displayed at any time upon any parcel of property in Three Oaks Township.
- E. Temporary signs shall be displayed in a manner so as to not cover nor obscure address markers or other signage upon the building.
- F. Temporary signs shall not obscure the clear sight area.
- G. Every temporary sign displayed shall be dated with an indelible marker, indicating the first day of display in the current usage period. No temporary sign shall be displayed longer than 30 days in a usage period.
- H. Prior to the display of any temporary sign, a permit shall be issued by the Zoning Administrator.
- I. Temporary or portable signs that are torn or otherwise in disrepair shall be prohibited.

§ 380-14.06. Permitted signs.

- A. In the AG-RR, R-1, R-2, R-3 and R-4 Districts, the following signs are authorized upon application for, and issuance of, a sign permit:
 - (1) Signs located on parcels containing places of public assembly, education facilities, nursing homes, governmental buildings, cemeteries, veterinary clinics, and bed-and-breakfast establishments may include one ground-mounted sign and one wall sign, one of which may be externally illuminated. The aggregate area of all signage shall not exceed 48 square feet; however, no single sign may exceed 32 square feet.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (2) Signs located on parcels containing open space activities, such as parks, golf courses, stables, nurseries and similar open space activities, may include:
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (a) One wall sign not exceeding a sign area of 32 square feet;
 - (b) One ground-mounted sign not exceeding a sign area of 32 square feet; and
 - (c) Two directional signs located on the proprietor's property not to exceed three square feet or three feet in height.
 - (3) A subdivision or other form of concentrated residential development may have two ground-mounted signs per entrance, not to exceed a sign area of 32 square feet per sign.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (4) In the AG-RR District, a farm stand may display two ground-mounted signs not more than 24 square feet in area per sign.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- (5) One temporary sign, with a minimum sign area of 24 square feet, but not to exceed 32 square feet, shall be permitted for any use.
- B. In the C-1 and I Districts, the following signs are authorized upon application for, and issuance of, a sign permit:
- (1) One wall sign per building wall frontage facing a public or private street. The maximum sign area permitted per building wall frontage shall be expressed in square feet and shall be not more than 12% of the width times the height of the building wall facing the public or private street to which the sign is attached. No wall sign shall exceed 100 square feet.
 - (2) Two directional signs with each such sign not to exceed three square feet in area or three feet in height.
 - (3) One ground-mounted sign with an area not to exceed 40 square feet may be permitted.
 - (4) For mixed-use or multitenant commercial establishments, one ground-mounted sign with an area not to exceed 40 square feet may be permitted per tenant. Five additional square feet of sign area may be added to the sign area of the sign for each business within the mixed-use or multitenant commercial establishment, not to exceed 72 square feet in total sign area. Each tenant may be permitted a wall sign per Subsection **B(1)**, above.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (5) One temporary sign not to exceed 32 square feet shall be permitted.

§ 380-14.07. Exempted signs.

The following signs are allowed in all zoning districts without a sign permit, provided all other applicable requirements are met:

- A. Dwellings. One nameplate not exceeding two square feet in area. Such sign may be ground-mounted.
- B. Building numbers, including residential buildings, not to exceed two square feet in area.
- C. Minor home occupations and home-based business. One wall sign not exceeding two square feet, provided that the sign complies with the other requirements of this chapter as appropriate.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- D. In the AG-RR District, one sign not more than eight square feet in area. Such sign may be a wall sign or a ground-mounted sign.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- E. Signs located on private property that is currently being offered for sale or lease. Such signs shall further be exempt from district setback requirements and shall not be limited as to duration, provided they meet the following standards for sign area and height:
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (1) Residence or residential lot. One sign not exceeding eight square feet in area or six feet in height.
 - (2) Property other than residential. One sign per frontage not exceeding 32 square feet in area.
- F. Signs, not exceeding nine square feet, placed by an individual on his or her residence or place of business, the display of which coincides with a political candidate, issue, or ballot measure.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- G. Signs placed by a governmental agency, including, but not limited to:
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (1) Emergency and warning signs necessary for public safety and welfare.

- (2) Traffic signs erected and maintained by an authorized public agency.
 - (3) Legal notices, licenses, permits and other signs required to be displayed by law.
- H. Miscellaneous.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (1) Public signs erected by an authorized public agency.
 - (2) Plaques erected or maintained by nonprofit organizations, memorials, building cornerstones, and erection-date stones erected by an authorized public agency.
 - (3) Signage for MEAP-verified farms.
- I. Signs located such that they are for viewing exclusively within the premises of the user and not visible otherwise.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 380-14.08. Legal nonconforming signs.

- A. Signs authorized by a valid permit and/or variance that complied with all applicable requirements prior to adoption of this chapter shall be permitted to remain and shall be regulated as a legal nonconforming condition, unless a determination is made by the Township Zoning Administrator that the sign is improperly maintained, abandoned, and/or presents threat to public health, safety or welfare.
- B. Legal nonconforming status shall be lost if:
 - (1) The sign is relocated or replaced.
 - (2) The structure or size of the sign is altered except toward compliance with this chapter. This does not refer to change of copy or normal maintenance.
 - (3) The sign suffers more than 60% damage or deterioration; it must be removed or brought in to compliance with this chapter.
 - (4) The sign is discontinued for 90 days or longer.
 - (5) The sign is structurally altered so as to change the shape, size, type, or design of the sign.
 - (6) The sign is abandoned.

§ 380-14.09. Prohibited signs.

Prohibited signs include, but are not limited to, the following:

- A. A sign located on public land, in a public right-of-way, or in a private road easement, unless it is part of the traffic control information for that road, except that signs located on property being offered for sale or lease displayed in front of the property and temporary signs coinciding with a political candidate, issue, or ballot measure are allowed if not obstructing pedestrian or vehicular traffic, are not less than 15 feet from the driving surface of the street or road and are at least 150 feet from the intersection of another street or road.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- B. Abandoned signs.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- C. Signs imitating or resembling official traffic or governmental signs or signals.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- D. Flashing or intermittently illuminated signs.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- E. Moving signs, including, but not limited to, forced-air actuated or air-supported signs, wind-actuated sign elements, motorized sign elements, and similar devices.
- F. Trailers, vehicles, or other mobile objects that are clearly used for advertising purposes.
- G. Portable signs, including, but not limited to, trailer-mounted signs, whether illuminated or not, sandwich boards and similar devices.
- H. Billboards and off-premises signs, except as regulated by the Highway Advertising Act.^[1]
[1] *Editor's Note: See MCLA § 252.301 et seq.*
- I. Pole signs, other than directional signs.

§ 380-14.10. Permits, review, administration, and enforcement.

- A. Each person or entity desiring to erect or maintain a sign 24 square feet and greater in area shall make written application to the Zoning Administrator, accompanied by the applicable fees, as adopted by the Township Board, which shall include the following:
 - (1) A sketch plan with sign plans drawn to scale, showing proposed location and type of the sign.
 - (2) Sufficient other details to demonstrate that the proposed sign, including structural and electrical components, shall comply with the provisions of this chapter.
 - (3) All applications shall be accompanied by the written consent of the owner of record of the property on which the signs are proposed to be erected.
 - (4) No sign requiring a sign permit shall be erected or installed until an application is approved.
 - (5) The permit review may be consolidated with site plan review if the required information is provided to the Planning Commission as part of a site plan review, in which case the Planning Commission shall recommend approval, approval with conditions or denial of the request.
- B. Expiration. Approval of a sign permit shall expire one year from its effective date if not constructed within one year, unless an extension not to exceed one year has been granted by the Zoning Administrator. The Zoning Administrator may deny extension of time for the approved sign if substantial changes in circumstances are found.
- C. Removal of signs. A sign shall be removed by the owner upon receipt of notice from the Township stating that the sign is unsafe or not properly maintained or otherwise does not comply with the requirements of this chapter by reason of its size, height, design, condition or location. The notice shall state that if the owner does not remove the sign, or correct the unsafe or improper condition, within a specified time period, the sign may be removed by the Township. Upon failure to remove or correct the unsafe or improper condition, the Township may take whatever action is necessary to have the sign removed or to otherwise abate the unsafe or improper condition, and in addition to other available remedies, the Township shall have the right to recover from the owner of the sign the full costs of removing and disposing of the sign or abating the unsafe or improper condition.
- D. Review criteria. In considering a sign permit request, the Zoning Administrator or the Planning Commission shall base action on the following criteria in addition to any other criteria elsewhere specified:
 - (1) The purpose of this article and this chapter in general.
 - (2) The standards and criteria as set forth in this section, including design standards.

- (3) Each sign shall be of a shape, material, style, letter types and color appropriate for the use, enhancing to the premises and harmonious with the neighborhood.

Article XV. Special Uses

§ 380-15.01. Purpose.

"Special uses" are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but have characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria that shall be applied in the determination of requests to establish special uses. The criteria for decision and requirements provided for under the provision of the chapter shall be in addition to those required elsewhere in this chapter that are applicable to the special use under consideration.

§ 380-15.02. Application procedures.

An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

- A. Application. Applications for a special use are requested to be submitted 20 days prior to the next scheduled Planning Commission meeting through the Zoning Administrator, who will review the application for completeness, then transmit the application to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of this fee shall be refundable.
- B. Required information. An application for a special use permit shall be accompanied by the following documents and information:
 - (1) An application form, supplied by the Zoning Administrator, which has been completed in full by the applicant.
 - (2) A site plan, as specified in Article **XVI**, Site Plan Review.
- C. Public hearings. Upon receipt of an application for a special land use that requires a decision of the Planning Commission, a notice that a request for special land use approval has been received, and a public hearing shall be scheduled with notice provided pursuant to § 380-21.06.
- D. Planning Commission review and approval. Within a reasonable time following the public hearing, the Planning Commission shall review the application for a special use, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and deny the application, approve the application, or approve the application with conditions. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, in the form of findings and conclusions, and report any conditions imposed. The decision of the Planning Commission on the special use application shall be made in accordance with the criteria for approval stated in this article.

[Amended 9-20-2017 by Ord. No. 6B]

§ 380-15.03. Basis of determination.

Prior to approval of a special use application, the Planning Commission shall ensure that standards specified in this article, as well as applicable standards established elsewhere in this chapter, shall be

satisfied by the completion and operation of the special use under consideration.

- A. General standards. The Planning Commission shall review the particular circumstances of the special use application under consideration in terms of the special use standards, and shall approve a special use only upon a finding in compliance with each of the following standards, as well as applicable standards established elsewhere in this chapter.
- (1) The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - (2) The special use shall not change the essential use of the surrounding area.
 - (3) The special use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
 - (4) The special use shall not place demands on public services and facilities in excess of current capacity.
 - (5) The special use is in compliance with the Three Oaks Township Master Plan.
- B. Conditions. The Planning Commission may require reasonable conditions in conjunction with approval of a special land use. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure the compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desired manner.
- C. Termination. If any special use is not utilized within one year of the date of approval by the Planning Commission, is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of one year or if it is conducted contrary to conditions or other ordinance imposed by the Planning Commission, then the special use shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this chapter; however, the Planning Commission, for good cause, may grant an extension for time to comply or to continue the special use if, in its judgment, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.

§ 380-15.04. Specific standards for special uses.

In addition to the general review standards set forth in § 380-15.03, the Planning Commission shall apply any specific review standards set forth in this article for any named special use. In the event this article does not set forth specific review standards for the special use under consideration, pursuant to § 380-12.20, the Zoning Administrator may propose, and the Planning Commission may incorporate, specific review standards for such use; provided, however, that any such standards adopted and any such conditions applied shall conform with the requirements of § 380-15.03B herein.

§ 380-15.05. Accessory dwelling.

(Reserved)

§ 380-15.06. Adaptive reuse.

(Reserved)

§ 380-15.07. Adult uses.

A. Purpose and intent.

- (1) The purpose and intent of this section is to deal with the regulation of adult businesses (as well as the defining "adult businesses" generally) and to regulate the location and operation of, but not to exclude, adult businesses within the Township by preventing the concentration of such uses in close proximity to one another and to minimize the negative secondary effects associated with them by separating such uses from residential, educational and religious uses, as well as other areas of public and private congregation, all within the limits of the Township's authority.
- (2) This regulation is implemented with the understanding and recognition that there are some uses which, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects, such as urban blight, reduction in property values, and increased crime, upon nearby residential, educational, religious and other similar public and private uses. This has been demonstrated in previous studies undertaken by communities in Michigan as well as other states. Three Oaks Township maintains an active file of these studies.
- (3) The implementation of appropriate regulations is necessary to ensure that negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not otherwise be injurious to the health, safety and general welfare of Township residents. The provisions of this chapter are not intended to impose a limitation or restriction on the content of any communicative material, including sexually oriented materials, protected by the First Amendment to the United States Constitution. Similarly, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this chapter to condone or legitimize the distribution of obscene materials, but to regulate land uses associated with such distribution or dissemination in a manner designed, within the limits of the United States Constitution and judicial opinions interpreting its breadth and scope, to ensure that the health, safety and general welfare of the citizens of Three Oaks Township are appropriately protected from any negative secondary effects associated therewith.
- (4) If any section, subsection, subdivision, sentence, clause, phrase or word of the amendments reflected herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. In such event, to the extent feasible, any such section, subsection, subdivision, sentence, clause, phrase or word held to be invalid or unconstitutional shall be disregarded, reduced and/or revised so as to be recognized to the fullest extent permitted by law. Through the enactment hereof, the Township Board declares that it would have passed and adopted this § 380-15.07 and all provisions thereof, irrespective of the fact that one or more provisions may be declared invalid or unconstitutional.

B. Review provisions. Adult businesses as defined herein will be allowed in the C-1 District as a listed special land use, subject to all the provisions of this article.

C. Additional information required for review. In addition to the standard requirements of information requested of all uses under special land uses and site plan review, adult businesses will be required to provide additional information as follows:

- (1) A statement of supporting evidence demonstrating compliance with the requirements of this section on a subsection-by-subsection basis.
- (2) The site plan consistent with the requirements of Article **XVI** of this chapter, showing the location of all abutting streets, the location of all existing and proposed structures and their uses, the location and extent of all aboveground development, both existing and proposed on

- the site, site lighting, proposed signage, and exterior elevations of the proposed adult business depicting it, to the extent feasible, in what will become its as-built condition, all in legible form.
- (3) Final building floor plans and specifications of the proposed development.
 - (4) A description of the proposed use, including references to definitions within this section.
 - (5) An area map, in a scale (no larger than one inch equals 50 feet), depicting and describing all land uses situated within 750 feet of the boundaries of the property upon which the proposed adult business is to be located.
- D. Basis for determinations; specific requirements. In reviewing an application for an adult business, the Planning Commission shall determine whether the following specific requirements have been met:
- (1) The proposed adult business will not be located within 550 feet of any residence, park, school, child-care establishment, place of worship or any other adult business. For purposes of this subsection, the distance between a proposed adult business and any of the above-listed uses shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line upon which the proposed adult business is to be located to the above-listed uses, regardless of the political jurisdiction.
 - (2) The proposed adult business will not have a detrimental impact upon the property values of properties located within 750 feet of such proposed adult business.
 - (3) Proposed signage shall not include animated or flashing illumination of any type and otherwise conform with the requirements of Article **XIV** of this chapter. Proposed signage may contain only the name of the adult business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
 - (4) Entrances to the proposed adult business will be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than two inches in height that:
 - (a) "No one under the age of 18 is permitted to enter the premises"; and
 - (b) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
 - (5) No product or service for sale or gift, or any picture or other representation thereof, shall be displayed so as to be visible from the street or exterior of the building.
 - (6) Hours of operation shall be limited to 8:00 a.m. to 12:00 a.m. (midnight).
 - (7) Persons operating an adult business shall not permit any person under the age of 18 years to be on the premises either as an employee or as a customer.
 - (8) Physical contact between performers, dancers or entertainers and the establishment patrons shall be prohibited. The interior arrangement shall incorporate a minimum six-foot isolation buffer between any performers, dancers or entertainers and the establishment patrons, regardless of whether any intervening glass or otherwise transparent barrier is provided.
 - (9) Total nudity of service persons, waitstaff, performers, dancers, entertainers or others, whether employees of the adult use or contractors, shall be prohibited.
 - (10) All off-street parking areas shall be illuminated during all hours of operation in accordance with this chapter and shall otherwise be open to view from the adjacent roadway.
 - (11) The proposed adult business owner/operator shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special land use application, which program shall provide for routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once per week. Continued adherence to such

exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this section.

- (12) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Enclosed viewing booths shall not be permitted. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (13) The premises shall meet all barrier-free requirements and building code requirements applicable in the Township.
- (14) The number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each 15 square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.
- (15) The applicant shall provide an overall management plan for the facility, including explicit rules to prohibit total nudity and to prevent any physical contact between performers, dancers or entertainers and the establishment patrons. Other rules shall include, but not be limited to, hours of operation, which shall not be greater than 8:00 a.m. to 12:00 a.m.; prohibition of alcoholic beverages, unless specifically licensed therefor by appropriate authority; and other rules that may be imposed by the Planning Commission. Failure to abide by any such approved rules of operation shall be grounds for revocation of special land use approval.
- (16) The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from adult businesses for the protection of the general welfare and individual property rights of affected property owners, and for ensuring that the intent and objectives of this chapter will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.

§ 380-15.08. Bed-and-breakfast operations.

Bed-and-breakfast operations shall be subject to the following provisions:

- A. A residential structure shall not be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this chapter, and adequate living space must be preserved for the manager or owner's quarters. A common room for guest relaxation is required in these facilities. Unless owner-occupied, the manager must reside on and have more than a nominal equity interest in the premises.
- B. Off-street parking for one vehicle for each bedroom to be rented must be available in addition to requirements for residential family vehicles.
- C. Bathrooms must be furnished for guest rooms, one bathroom not to serve over four guest rooms.
- D. No separate cooking facilities are allowed for a bed-and-breakfast operation if only a continental breakfast is served.
- E. In residential districts, one sign shall be permitted pursuant to Article **XIV** of this chapter. No off-site signage shall be permitted.
- F. Inspection and approval by the Zoning Administrator is required prior to occupancy of bed-and-breakfast facilities. Berrien County Health Department approval is required if other than continental breakfast.

- G. The letting of bed-and-breakfast rooms shall be limited to short-term occupancy, not to exceed 30 continuous days.
- H. A residence must contain a minimum of 2,400 square feet of floor area to be converted into a bed-and-breakfast facility.

§ 380-15.09. Day care, group.

(Reserved)

§ 380-15.10. Dwelling, multiple-family.

(Reserved)

§ 380-15.11. Dwelling, single-family.

Single-family dwellings, when treated as a special land use under this chapter, shall be subject to the following regulations:

- A. A single-family dwelling shall comply with the minimum square footage requirements of this chapter for the zone in which it is located.
- B. A single-family dwelling shall have a minimum front building dimension measured at the foundation line of 33 feet, measured perpendicular at the foundation line running not less than 33% of the length of the longest wall, and complies in all respects with the Township Building Code,^[1] including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the building code adopted by the Township, then and in that event, such federal or state standard or regulation shall apply.
[1] Editor's Note: See Ch. 135, Construction Standards and Enforcement, Art. I.
- C. A single-family dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, defined herein, such dwellings shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.
- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- E. A single-family dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the Berrien County Health Department.
- F. A single-family dwelling shall contain a storage-capability area in a basement located under the dwelling, in an attic area, in closed areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 120 square feet, whichever shall be less.
- G. A single-family dwelling shall contain a parking pad, garage or covered parking as required by this chapter.

- H. A single-family dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides or, alternatively, with windowsills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling unit; and has steps connected to each exterior door area or to porches connected to said door areas where a difference in elevation requires the same. Compatibility of design and appearance shall be determined by the Township Zoning Administrator upon review of the plans submitted for a particular dwelling. The decision of the Zoning Administrator may be appealed to the Zoning Board of Appeals by an aggrieved party. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design, and appearance of the majority of residential dwelling located outside of mobile home parks within 1,200 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the village or Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.
- I. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- J. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR Part 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- K. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.
- L. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township Building Code provisions and requirements.
- M. All construction shall conform with health, safety, and welfare specifications of the adopted building code for emergency egress, rescue windows and smoke detectors.

§ 380-15.12. Dwelling, two-family.

(Reserved)

§ 380-15.13. Farm product processing facility.

- A. Definition. A facility involved in the complete or partial conversion of any agricultural product into a commercial product of any kind, or in the processing of agricultural-related waste products. A farm product processing facility may include, but shall not be limited to, ethanol processing plants, slaughter operations, canning operations, methane processing and refining plants, and similar facilities.
- B. Regulations and conditions.
 - (1) The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

- (2) The applicant shall demonstrate that the proposed use does not significantly affect traffic circulation and transportation safety in the area in which it is proposed.
- (3) Such processing facilities which are regulated at the state or national level shall provide verification that such use and facilities shall at all times conform to all applicable laws and regulations.
- (4) The Township shall be provided copies of all required permits from any local, state, or federal agency. It shall be the applicant's responsibility to ensure that permits do not expire without renewal.
- (5) Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels shall be carried onto adjoining property zoned for, or occupied by, residential uses.
- (6) Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the R-1, R-2, R-3 or R-4 Districts.
- (7) Any dumpsters on site shall be enclosed on four sides with an opaque fence equipped with a lockable gate, so that any refuse or dumpster shall not be visible from any building, dwelling, adjacent property, or street. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
- (8) The applicant shall disclose the nature and quantity of all chemicals or hazardous materials to be used or stored on site, and all uses and activities shall at all times comply with applicable local, state and federal standards pertaining thereto.
- (9) Wastewater discharges to any municipal wastewater system shall conform to the requirements for industrial pretreatment. No toxic or hazardous materials shall be discharged to groundwater or surface water.
- (10) Pursuant to § 380-16.04D, the Planning Commission may require the preparation of an environmental assessment or traffic impact study to evaluate the potential impact from the farm product processing facility on surrounding land uses and public roads.

§ 380-15.14. Gasoline station with convenience store.

(Reserved)

§ 380-15.15. Governmental office.

(Reserved)

§ 380-15.16. Hobby farm or specialty farm operation.

- A. Definition. A smallholding or small farm operation that is maintained without expectation of being a primary source of income, or a small farm operation engaged in specialty crops at a modest scale.
- B. Regulations and conditions.
 - (1) A hobby/specialty farm operation located in the R-1 District shall not exceed 20 acres in area.
 - (2) A hobby/specialty farm operation that involves retail sales to the general public shall also be regulated as a major home occupation, subject to the provisions of § 380-15.17.
 - (3) The Planning Commission shall find satisfactory measures to assure no noise emitted from the use will exceed 45 decibels for periods in excess of two hours in any twenty-four-hour period.

- (4) The Planning Commission shall require satisfactory measures to prevent the release of noxious, odorous or toxic smoke, gas or other emissions detectable at any property line.
- (5) The Planning Commission shall require satisfactory measures to prevent the drifting or airborne transmission beyond the lot line of dust, dirt or debris.
- (6) The Planning Commission may establish conditions of operation or development, including, but not limited to, increased setbacks and isolation distances, landscape buffering and/or fencing, and hours of operations, intended to assure compatibility with the residential characteristics of the R-1 Zoning District.

§ 380-15.17. Home occupation, major.

- A. Purpose. These standards are intended to ensure compatibility with the other permitted uses and the residential character of the neighborhoods in which home occupations and home-based businesses are located. Home occupations and home-based businesses shall be secondary or incidental to the residential use of the parcel and principal structure. Each, when meeting the standards contained herein, shall be so located and constructed that the average neighbor, under normal circumstances, will not be aware of such home occupation or home-based business.
- B. Registration required. Home occupations and home-based businesses shall be registered with the Township's Zoning Administrator prior to commencement of any activity related to such home occupation or home-based businesses.
- C. Performance standards. Home occupations shall comply with the following standards:
 - (1) A home occupation shall be conducted only by the resident(s) of the dwelling plus not more than one nonresident.
 - (2) A home occupation shall be conducted entirely within the dwelling unit or not more than one accessory building.
 - (3) The home occupation shall not alter the external appearance of the dwelling to cause the premises to differ from its residential construction, and shall not utilize lighting, signs, or cause the emission of sounds, noises, fumes, or odors, or electrical interference beyond what normally occurs in a residential zoning district.
 - (4) There shall be no outdoor storage or display of any kind related to the home occupation.
 - (5) No traffic shall be generated by such home occupation in greater volumes than what normally occurs within the residential neighborhoods located in this zoning district, including, but not limited, to customer traffic and deliveries.
 - (6) Parking generated by the conduct of the home occupation shall be provided off the street.
- D. Home-based businesses. All home-based businesses shall comply with the following standards in addition to the standards for home occupations as set forth above:
 - (1) Only one commercial vehicle, limited to maximum of one ton, shall be parked at the residence at any given time for the purpose of the home-based business.
 - (2) All equipment and/or tools associated with the home-based business shall be stored indoors and shall be limited to one accessory building.
- E. Revocation of permit. All permits issued to home occupations and home-based businesses pursuant to this chapter, or which have been granted by the Township previously, shall be revocable by the Township Zoning Administrator if such home occupation or home-based business fails to comply with any of the applicable standards as set forth in this chapter, any other applicable ordinance or code.

§ 380-15.18. Hotels and motels.

(Reserved)

§ 380-15.19. Kennels.

- A. The minimum lot area shall be one acre for the first four animals, and an additional 1/3 acre for each animal in addition to the first four.
- B. Buildings where animals are kept, dog runs, and exercise areas shall not be located nearer than 100 feet to any adjacent occupied dwelling and shall be set back at least 75 feet from any R-1, R-2 or R-3 District.
- C. Dog runs and exercise areas shall not be located in any front yard or required side or rear yard setback area.
- D. All principal-use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.

§ 380-15.20. Landfill and gas recovery.

- A. Definition. A regulated and licensed facility for the safe disposal of solid waste, potentially including a facility for the capture, recovery and refinement of gasses generated by natural decomposition.
- B. Regulations and conditions.
 - (1) All required state and federal licenses and permits shall be issued prior to the start of operations and shall remain in effect.
 - (2) No operation to capture, refine or remarket landfill gasses shall be initiated without prior approval from the Township pursuant to this Article **XV**.
 - (3) An operation to capture, refine or remarket landfill gasses shall not result in any additional public expense for the Township without compensating reimbursement from such operation.

§ 380-15.21. Place of public assembly, large.

A place of public assembly shall be considered a large facility if it has either 2,000 square feet or more in gross floor area, total seating capacity of more than 100 in the largest room intended for public assembly, or the capability to expand to meet these standards in the future. For the purposes of this section, a capability to meet these standards may be demonstrated by sufficient available land owned by the applicant or an entity associated with the applicant, a building designed to readily accommodate an expansion or a declaration by the applicant of future intent to expand the facility to meet these standards.

- A. A large place of public assembly shall be located on a parcel of land with a minimum area of five acres; provided, however, that such facility shall meet the maximum lot coverage requirements of this chapter.
- B. A large place of public assembly shall take its primary vehicular access from an all-season county road.
- C. For a large place of public assembly, the Zoning Administrator may require special studies or research under the terms of § 380-16.04D of this chapter.

- D. All signs shall be in compliance with the provisions of Article **XIV** of this chapter.
- E. All off-street parking shall be in compliance with Article **XIII** of this chapter.
- F. Landscaping and buffering shall be provided in accordance with § 380-12.11 of this chapter.

§ 380-15.22. Planned unit developments.

A. Purpose and intent. This section provides enabling authority and standards for the submission, review, and approval of applications for a planned unit development. The provisions of this chapter are not intended as a device for ignoring this chapter or the planning upon which it has been based. To that end, provisions of this chapter are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from district regulations, such as density, height, lot coverage, lot width, and setbacks, in accordance with standards provided in this chapter to ensure appropriate, fair, and consistent decisionmaking. Modifications and departures of the private road pavement and easement width dimensions may also be requested and considered; however, modifications to the construction or maintenance specifications may not be granted. It is the intent of this chapter to authorize the consideration and use of planned unit development regulations for the following purposes:

- (1) To promote the conservation of natural features and resources.
- (2) To promote and ensure greater compatibility of design and use between neighboring parties.
- (3) To allow for the flexibility in the regulation of land development.
- (4) To encourage innovation in land use and variety in design, layout, and type of structures constructed.
- (5) To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
- (6) To encourage useful open space.
- (7) To provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.

B. Qualifying conditions. In order to be eligible for planned unit development, the proposed area must meet the following criteria:

- (1) The proposed area shall consist of a minimum of five acres of contiguous land.
- (2) Public utilities as defined herein shall be available to service the site.
- (3) Only those uses permitted in the underlying zoning district shall be permitted in a PUD. This provision shall not apply to lands that were the primary subject of study in the Enterprise Park Development Plan and designated in the 2013 update and supplement to the Three Oaks Township Master Plan as Enterprise Park, provided that proposed land uses in the PUD are consistent with the update and supplement and the development plan.
[Amended 9-14-2015 by Ord. No. 50]

C. Development requirements.

- (1) Density.
 - (a) Uses in any underlying zoning district shall be subject to the following density and open space standards; provided, however, there shall be no density bonus for a nonresidential PUD:

Table 3-A

Table 3-A	
Minimum Percent of Site Preserved as Common Open Space	Maximum Density Bonus
25% minimum open space	5% density bonus
35% minimum open space	10% density bonus
45% minimum open space	15% density bonus

- (b) In each case, the maximum density for residential use shall be determined by the Township Board up to the maximum indicated in Table 3-A, after review by the Planning Commission based on the following standards. The residential uses shall:
- [1] Be designed, constructed, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - [2] Be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer.
 - [3] Not create excessive additional requirements at public cost for public facilities and services.
 - [4] Be developed in accordance with the intent for a planned unit development as contained herein.
- (2) Dwelling unit computation. The density permitted by the Township Board shall be applied to the net development area of the site in order to determine the maximum number of dwelling units permitted for the site. The net development area is determined by subtracting the following from the gross or total site area:
- (a) Area within existing road rights-of-way and/or private road easement.
 - (b) Area within a 100-year floodplain, critical dune area or high-risk erosion area as defined by the Department of Environmental Quality.
- (3) Amount of open space. A planned unit development shall maintain a minimum of 20% of the gross area of the site as dedicated open space held in common ownership, provided additional open space may be required if density bonuses are requested per Table 3-A.
- (4) Areas not considered open space. The following land areas are not included as dedicated open space for the purposes of meeting the requirements of Table 3-A:
- (a) Lot areas proposed as single-family residential or site condominiums, or commercial, industrial structures; provided, however, that any required transition strip may be counted towards open space so long as it meets the requirements of § 380-15.22C(5).
 - (b) Area proposed to be occupied by multiple-family dwellings, including the minimum required setbacks around buildings.
 - (c) The area of any road right-of-way or private road easement.
 - (d) Any submerged land area of a pond, lake or stream, except constructed wetlands and stormwater detention/retention ponds designed to appear and function similar to natural wetlands and ponds may be counted as open space, provided at least 50% of the minimum required open space area (i.e., 25% of the total site) shall be in the form of usable park area or upland nature preserves.
 - (e) Golf courses.

- (5) Open space location. Open space shall be planned in locations visible and accessible to all in the planned unit development. The open space may either be centrally located along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area considered for density bonus calculation:
- (a) The open space along the exterior public roads shall have a depth of at least 50 feet, either landscaped or preserved in a natural, wooded condition.
 - (b) Open space shall be situated to maximize the preservation of existing site woodlands.
 - (c) A minimum of 100-foot-wide undisturbed open space setback shall be maintained from the edge of any stream or wetland, provided that the Township may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 - (d) A minimum 100-foot-wide open space buffer shall be maintained between residential lots and any adjacent parcel zoned AG-RR and actively farmed.
 - (e) Where adjacent land includes open space, public land or existing or planned unit developments or open space cluster developments, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.
 - (f) Any open space area shall be a minimum of at least 50 feet in all dimensions.
- (6) Open space protection. The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement or other deed restriction that is found acceptable to the Township. The conservation easement or deed restriction shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement or deed restriction shall provide the following:
- (a) Allowable use(s) of the dedicated open space shall be indicated. The Township may require the inclusion of open space restrictions that prohibit the following:
 - [1] Dumping or storing of any material or refuse;
 - [2] Activity that may cause risk of soil erosion or threaten any living plant material;
 - [3] Cutting or removal of live plant material except for removal of dying or diseased vegetation;
 - [4] Use of motorized off-road vehicles;
 - [5] Cutting, filling or removal of vegetation from wetland areas;
 - [6] Use of restricted pesticides, herbicides or fertilizers within or adjacent to wetlands.
 - (b) Dedicated open space shall be maintained by parties who have an ownership interest in the open space. Standards for scheduled maintenance of the open space shall be provided. The conservation easement or deed restriction shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.
 - (c) The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Any change in use

of the open space from what is shown on the approved site plan shall require Township Board approval, based upon a recommendation by the Planning Commission, and shall not diminish compliance with the requirements of this chapter.

- (d) Nothing herein shall prevent the conveyance of open space to a public agency or other nonprofit entity for recreational or conservation use.
- (7) Uses. Only those uses permitted in the underlying zoning district shall be permitted in a planned unit development.
- D. Application and processing procedures.
- (1) Preapplication conference. Prior to the submission of an application for planned unit development, the applicant shall meet with the Zoning Administrator and such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the planned unit development and a parallel plan with the following information:
- (a) A legal description of the property in question;
 - (b) The total number of acres to be included in the project;
 - (c) The parallel plan shall include a sketch plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the planned unit development option. This number of units, or base density, shall be the maximum number of dwelling units allowable for the planned unit development, unless a density bonus is requested per Table 3-A;
 - (d) A statement of the number of residential units and/or the number, type, and square footage of nonresidential uses;
 - (e) The number of acres to be occupied and/or devoted to or by each type of use;
 - (f) A list of all departures from the regulations of this chapter which may be requested;
 - (g) Graphic and written description of how public water and sanitary sewer will serve the site;
 - (h) The number and written description of acres to be preserved as open space; and
 - (i) All known natural resources and natural features.
- (2) Site plan. Following the preapplication conference or conferences, 12 copies of a site plan and application for a planned unit development request shall be submitted not later than 45 days prior to the next scheduled meeting of the Planning Commission. The submission shall be made to the Zoning Administrator, who shall first determine if the application is complete. Only complete applications shall be scheduled for the Planning Commission review. The plan shall be accompanied by an application form and fee as determined by the Township Board. The preliminary site development plan shall contain all of the information required for a site plan in Article XVI, in addition to the following:
- (a) The boundaries of any floodplain, critical dune area or high-risk erosion area as defined by the Department of Environmental Quality, or other agencies.
 - (b) A narrative describing:
 - [1] The nature of the project.
 - [2] The proposed density, number, and types of dwelling units if a residential PUD.
 - [3] A statement describing how the proposed project meets the objectives of the PUD.
 - [4] A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.

- [5] Proof of ownership or legal interest in property.
 - [6] The impact of the project on roads, schools and utilities.
 - [7] Key provisions of the Master Deed that demonstrate how the intent and regulations of this chapter will be satisfied.
 - [8] Key provisions of any design guidelines, if applicable.
- (c) A parallel plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the planned unit development option. The parallel plan shall include the boundaries of any floodplain, critical dune area or high-risk erosion area as defined by the Department of Environmental Quality or other agencies. The number of units, or base density, shall be the maximum number of dwelling units allowable for the planned unit development, unless a density bonus is requested per Table 3-A.
- (d) If the applicant is proposing a private road, an application for private road shall also be submitted and reviewed concurrent with the Site Plan.
- (3) Planning Commission review. The Planning Commission shall review the site plan according to the provisions of § 380-16.06, Review criteria, and, if applicable, the private road application according to the provisions of § 380-12.17 herein and transmit any recommendations for changes or modifications of the basic site plan to the applicant. At the discretion of the Planning Commission, the request for planned unit development approval shall be set for a public hearing.
- (4) The public hearing notice shall describe the planned unit development as well as the planned unit development site plan. Notice of the hearing shall follow the noticing requirements contained in § 380-21.06.
- E. Standards for approval. Following the public hearing, the Planning Commission shall recommend to the Township Board approval, approval with conditions, or denial of the request for the planned unit development subject to the site plan. The Planning Commission shall also have the discretion to recommend a density bonus up to the amounts set forth in Table 3-A. In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of the PUD special land use and the following standards:
- (1) Approval of the planned unit development will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
 - (2) In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
 - (3) The proposed development shall be compatible with the Three Oaks Township Development Plan and shall be consistent with the intent and purpose of this chapter.
 - (4) The planned unit development shall not change the essential character of the surrounding area.
 - (5) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this chapter. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.
- F. Township Board approval and PUD site plan approval. After receiving the recommendation of the Planning Commission, the Township Board shall approve, deny, or approve with conditions the PUD special land use and density bonus and shall approve, deny or approve with conditions the

site plan for the PUD in accordance with the standards for approval and conditions for a PUD as contained herein. This approval is valid for a period of 18 months.

- G. Performance guarantee. The Planning Commission is empowered to require a performance guarantee, such as a letter of credit, cash, or certified check, in an amount up to the estimated cost of improvements and administrative costs associated with the project or for each phase. Such performance guarantee shall be deposited with the Treasurer of the Township at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site development plan. The Township shall rebate a proportional share of the deposit, biannually as requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. The Zoning Administrator may, at his discretion, call upon professional assistance from the Township Engineer or the Township Planner. In cases where the provisions of the final development plan, as approved, have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.
- H. Amendments. Amendments to the special land use shall be treated as a new application under this section. Amendments to a final site plan for planned unit development shall follow the amendment process as outlined in § 380-16.09, Amendment to site plan.
- I. Scheduling of construction. The physical development of the area must start within two years of the date of approval of the detailed site plan and planned development. Failure to start development shall invalidate the plan; provided, however, the Township Board, upon review and recommendation by the Planning Commission, may extend such period of time up to one year. In the event that physical development does not start within two years of the date of approval of, or by the date authorized by the Planning Commission if an extension is granted, the Board shall invalidate the planned unit development.

§ 380-15.23. Processing and manufacturing.

- A. Definition. Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.
- B. Regulations and conditions.
 - (1) The applicant shall disclose the nature and quantity of all chemicals and hazardous materials to be used or stored on site, and all uses and activities shall at all times comply with applicable local, state and federal standards pertaining thereto.
 - (2) Wastewater discharges to any municipal wastewater system shall conform to the requirements for industrial pretreatment. No toxic or hazardous materials shall be discharged to groundwater or surface water.
 - (3) Within 100 feet of an R-1, R-2 or R-3 District, all manufacturing and processing activities shall take place within a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or six-foot-tall fencing designed to be compatible with the surrounding neighborhood.
 - (4) All local, county, state and federal laws, statutory and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permit issued pursuant to this section.
 - (5) The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.

- (6) In addition to the provisions of § 380-12.11, the Planning Commission may require additional open space and landscape buffer screening between the proposed use and adjacent property.
- (7) All exterior lighting shall be in accordance with § 380-12.12 hereof.

§ 380-15.24. Retail sales in industrial uses.

- A. Definition. Retail sales to the general public conducted in connection with, and as an ancillary activity to, manufacturing, assembly and production uses within an industrial area.
- B. Regulations and conditions.
 - (1) Within an industrial area, retail sales may be permitted where the Planning Commission finds that such activity shall not undermine the fundamental industrial character of the district.
 - (2) Such retail activity shall be conducted as an ancillary element to manufacturing, assembly or related activities on the site.
 - (3) The Planning Commission shall determine that on-site circulation and surrounding roads will not be overburdened by retailing activity.
 - (4) The site plan shall provide suitable measures to safely handle retail customer traffic while maintaining truck and equipment handling traffic without conflict.
 - (5) The Planning Commission may, as a condition of approval, establish operational conditions, including, but not limited to, hours of operations, limitations on outdoor sales and storage of retail goods, standards on minimum percentage of retail comprised of goods produced on site, and the amount of total floor area to be devoted to retail sales.
 - (6) An operation, including retail sales, in an industrial development shall not be entitled to additional signage beyond that permitted for other industrial uses pursuant to Article **XIV**.
 - (7) The Planning Commission may require additional parking in excess of that required for the industrial activities on site to accommodate the retail operation up to the amounts that may be specified in Article **XIII**.

§ 380-15.25. Roadside stands.

Roadside stands that exceed a floor area of 32 square feet and/or are operated for more than eight weeks in any twelve-month period shall be subject to the following requirements:

- A. The total floor area of the roadside stand shall not exceed 200 square feet.
- B. Only fruits, cut flowers, honey, vegetables or other products that have been grown or produced on the premises shall be sold in a roadside stand.
- C. No part of the roadside stand, sales area or parking area shall be located within a road right-of-way.
- D. All structures associated with the roadside stand shall be portable and shall be removed when not in use.
- E. Only one roadside stand shall be permitted on any one parcel.
- F. The Planning Commission shall give due consideration to the nature of the proposed use and its potential impact on the surrounding land uses and may establish appropriate site conditions to assure that the use will generate no detrimental impacts on surrounding property.

- G. A roadside stand shall be permitted not more than one sign with a surface area of 32 square feet. Such sign shall not be lighted.
- H. A minimum of two off-street parking spaces shall be provided for each roadside stand.

§ 380-15.26. Conventional subdivisions in AG-RR District.

- A. The Three Oaks Township Master Plan sets forth the policies of the Township regarding the preservation and enhancement of the community's natural character. In those parts of the Township that include prime or unique agricultural lands and/or are characterized by important natural features, development that fails to properly recognize those features or incorporate measures to protect and preserve them are hereby found to be generally at odds with the policies of the Master Plan. Therefore, in the AG-RR District, the subdivision and development of property for residential uses shall be undertaken primarily through exempt splits or divisions not subject to the platting requirements of the Land Division Act^[1] or the Condominium Act,^[2] or through the conservation subdivision development standards of § 380-15.27 of this chapter. It is understood that there may be areas of the Township within the AG-RR District where the provisions of § 380-15.27 may not be appropriate, or there may be particular development forms that do not include significant areas of open space but which nevertheless do substantially support the policies of the Master Plan. The purpose of this section is to provide standards and conditions to address those areas of the Township and those development forms as special land uses.

[1] *Editor's Note: See MCLA § 560.101 et seq.*

[2] *Editor's Note: See MCLA § 559.101 et seq.*

- B. An application to undertake a conventional residential subdivision in the AG-RR District shall include a written narrative demonstrating why the particular parcel is a poor site for a conservation subdivision pursuant to § 380-15.27. Reasons why a property may be a poor site for application of the standards of § 380-15.27 include:
 - (1) A lack of any identified significant natural features; and/or
 - (2) A lack of prime or unique agricultural soils; and/or
 - (3) A predominant pattern of development adjacent to and in the immediate vicinity of the site which would make the protection of agricultural lands on the parcel of little value; and/or
 - (4) The concealed location of the site, which would preclude any open space on the site from contributing to the rural character of the community; and/or
 - (5) A demonstration that the proposed residential subdivision would be more in keeping with the goals and objectives of the Three Oaks Township Master Plan than other feasible forms of development.
- C. The Planning Commission shall conduct a detailed inquiry of any proposal to undertake a residential subdivision in the AG-RR District and carefully apply the standards of this section. The Planning Commission may seek additional detail of the applicant to determine whether the parcel may be used for agricultural or other permitted purposes or be developed under § 380-15.22 with minor reconfiguration or adjustment. The possible or alleged impact of the open space preservation development form on the marketability of the property or the lots or parcels to be developed is considered to be speculative and shall not be a consideration of the Planning Commission.
- D. Where a proposed residential subdivision in the AG-RR District will abut an existing residentially zoned and improved parcel, the Planning Commission may require buffering, screening, setbacks and/or other elements that are greater than those otherwise required by this chapter to assure an attractive and harmonious transition from existing development patterns to the proposed development.

§ 380-15.27. Conservation subdivisions.

Within the AG-RR District, the owner of property may elect to develop an open space preservation development in accord with the terms of this section. A maximum of 50% of the parcel's buildable area may be divided into new parcels averaging not less than one acre in area. The remaining 50% of the parcel shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means acceptable to the Planning Commission.

- A. Minimum open space requirement. The development density which would normally be realized on the entire parcel shall be transferred to the area of the parcel which is not the 50% area of the parcel which shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means.
- B. Determining maximum allowable parcel divisions. The maximum number of new lots which may be created within the parcel shall be the same number that would be permitted on the site under the provisions of the AG-RR District. To determine this density, the applicant shall either:
 - (1) Submit a conceptual plan of division of the parcel. This conceptual plan shall contain proposed parcels, roads, rights-of-way, areas which are not in the buildable area, and other pertinent features in compliance with Township ordinances and stipulations. This plan must be drawn to scale; or
 - (2) Multiply the buildable area of the parcel, as defined herein, by 85% to account for rights-of-way, and divide the result by the minimum parcel area in the AG-RR district.
- C. Siting criteria for new parcels. Creativity and originality in parcel layout shall be encouraged to achieve the best possible relationship between buildable land and open space.
 - (1) The parcels shall be no smaller than one acre in gross area, unless the Zoning Board of Appeals or similar body determines this to create a significant hardship upon the applicant due to natural features or easements.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (2) All parcels shall be accessed from a public or private road, and have a minimum frontage of 100 feet.
 - (3) If more than one parcel is divided, the parcel shall be contiguous unless the Planning Commission finds that the physical characteristics of the property, including the environmental conditions and property configuration, or other circumstances beyond the control of the applicant make this impractical.
 - (4) Where residential parcels exist on adjacent properties of an area less than 10 acres, the parcels to be split shall be adjacent to such existing residential lots.
 - (5) The parcels shall meet County Health Department requirements for well and sanitary septic systems.
- D. Density bonus. A 10% density bonus may be considered by the Planning Commission in approving the open space preservation development when two or more of the following standards are met:
 - (1) Protection and preservation of floodplain areas or slopes over 25%.
 - (2) Maintenance of a significant upland buffer of natural native species vegetation adjacent to wetlands and surface waters.
 - (3) Protection of prime farmland areas where soils are suitable for agriculture.
 - (4) Preservation of scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads.

- (5) Protection of wildlife habitat areas of species listed as endangered, threatened or of special local concern.
 - (6) Protection and preservation of sites of historic, archaeological, or cultural value.
 - (7) Provision of reasonable and contiguous open space areas that are attractive and useful for future residents and the larger community.
- E. Application and site plan review process. A preapplication conference shall be held involving the applicant and the Zoning Administrator to discuss the applicant's objectives and how these may be achieved under this provision. Engineering, site plans, or surveys shall not be required for the preapplication conference and shall not be accepted or reviewed at the preapplication conference. If necessary, a site visit may be scheduled during the preapplication conference. All open space preservation developments shall be processed in accordance with Article **XVI**, pertaining to site plan review.

§ 380-15.28. Theaters.

(Reserved)

§ 380-15.29. Vehicle repair facility.

- A. Dismantled, wrecked or inoperable vehicles or any vehicle parts or scrap of any kind shall not be kept outdoors where they are visible from any adjoining property or right-of-way, nor shall such vehicles be stored for more than 60 days. The Planning Commission may require an opaque fence up to eight feet in height and/or an evergreen landscape buffer not less than eight feet in height at time of planting to screen any vehicles from neighboring uses or passersby.
- B. Not more than two vehicles shall be parked on site at any time for the purpose of selling or renting such vehicles.
- C. Lot area shall be at least 15,000 square feet.
- D. All equipment, including hydraulic hoists, pits, lubrication and repair facilities, shall be entirely enclosed within a building. No outdoor storage of merchandise or equipment shall be permitted.
- E. All repair and maintenance activities shall be performed entirely within an enclosed building.
- F. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

§ 380-15.30. Warehouse.

(Reserved)

§ 380-15.31. Agritourism establishment.

[Amended 9-14-2015 by Ord. No. 50]

- A. Definition. A commercial enterprise related to farming operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products and which may include farm product retailing and sampling, educational and/or outdoor recreational programs, an accommodation use, farm tours, horseback riding, and similar activities.
- B. Regulations and conditions.

- (1) An application for an agritourism establishment shall include a complete site plan in accordance with Article **XVI** with detail on parking, sanitation, refuse and solid waste management, on site lighting, fencing, crowd control, on-site vehicular and pedestrian circulation, details on any public address system and equipment, signage and related facilities, existing and proposed. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the special land use application to be relied upon by the Township in granting any approval.
- (2) The Planning Commission shall evaluate the proposed agritourism establishment and the activities proposed to determine whether it will be compatible with neighboring and allowed uses in the vicinity.
- (3) If an agritourism establishment is intended to include any overnight accommodations, that element of the use shall comprise only a small part of the property, so that the farm use of the site is predominant and the accommodation use is secondary. The Planning Commission may approve a proposed departure from this requirement if it finds that the proposed accommodation use is substantially farm-related or that the use and its activities would not have impacts on the vicinity similar to impacts generated by a commercial business, including consideration of traffic, light pollution, noise, blowing trash, signage, odor, and aesthetics.
- (4) Farm markets with a country theme dealing with products grown on site, locally grown products as well as related items produced elsewhere, whether operating year-round or seasonally, shall be considered an agritourism establishment under this section; provided, however, that roadside stands and markets for the sale of products primarily grown or produced upon the premises with no more than 600 square feet dedicated to retail sales shall not be considered an agritourism establishment subject to the terms of this section.
- (5) Tasting rooms and related food-service activities shall at all times comply with any and all requirements of the Berrien County Health Department and the Michigan Liquor Control Commission.
- (6) Periodic or permanent recreational or entertainment activities or facilities, such as, but not limited to, rodeo demonstrations, tractor pull events, hay rides, corn mazes, concerts, haunted houses and similar features or events shall be clearly described in any application for special land use approval and must be authorized in advance pursuant to this section.
- (7) The Planning Commission may impose requirements on the placement of the facility on the site to protect adjacent properties from its impacts and to maintain rural views from public roads. The facility and all of its outdoor ancillary structures and activities, such as parking and gathering space, shall be located at least 50 feet from property lines. The Township may approve a proposed departure from this requirement if it finds that locational and layout attributes, buffers, adjacent uses and site configurations, and other features of the subject site and nearby property work together to minimize impacts of the proposed use, provided that other applicable dimensional requirements of this chapter are met.
- (8) The Township may require submittal of a traffic impact study, the purpose of which shall be to analyze the effect of traffic generated by the proposed use on the capacity, operations, and safety of the public road system and to propose mitigation measures.
- (9) The Township may require landscaping and other features to screen the use from adjacent properties, and the Township may impose limitations on the operation of the facility to protect adjacent properties from its impacts. Such limitations may pertain to hours of operation, outdoor lighting, outdoor activities, noise, and other elements.
- (10) The applicant shall demonstrate that all vehicular parking will occur on the site. A pervious parking surface is preferred, and the applicant shall demonstrate that dust would be controlled.

§ 380-15.32. Wireless communication antenna.

[Added 9-20-2017 by Ord. No. 6B]

- A. Purpose. It is the intent of this section to regulate those wireless communication towers and antennas in accordance with the Federal Telecommunications Act of 1996, the Sequestration Act of 2012 and the Michigan Zoning Enabling Act, PA 110 of 2006,^[1] as amended. Within the general parameters of these laws, this section also intends to reduce the impact of these communication elements on adjacent land uses by reasonably regulating their location, height, safety, general appearance, and eventual removal. Additionally, this section intends to promote and encourage the co-location of attached communication antennas on existing towers and support structures.

[1] *Editor's Note: See MCLA § 125.3101 et seq.*

- B. Applicability.

- (1) All new wireless communication facilities in the Township shall be subject to these regulations, except as provided for below:

- (a) Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section unless modified.
- (b) Exempt towers or antennas. The following types of wireless communications antenna may be administratively approved in the Township:

[1] Amateur radio station operators. Any tower, or the installation of any antenna, that is under 125 feet in height and is owned and operated by a federally licensed amateur radio station operator may be approved by the Zoning Administrator as an accessory use.

[2] Co-location. The following uses of wireless communication antennas may be administratively approved after review by the Zoning Administrator:

[a] Locating or co-locating antennas on existing structures or towers.

[b] A tower that is modified or reconstructed to accommodate the co-location of an additional antenna, provided that it is of the same tower type as the existing tower.

[c] An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the co-location of an additional antenna.

[3] Antenna placement on publicly-owned facilities. Wireless communication antennas or towers may be installed on publicly owned water towers or other facilities, and their accessory equipment and shelters may be installed on publicly owned property in any zoning district, with a lease approved by the Township Board and subject to the requirements of the site plan review.

[4] Towers placed by Township and towers placed for emergency services. The placement of towers or antenna dedicated to public safety and/or emergency services is permitted in any district, subject to site plan review and approval by the Planning Commission.

- (2) For Subsection **B(1)(b)[2]** and **[3]** above, the Zoning Administrator shall review the application in accordance with the standards of this section and shall either approve, approve with conditions, or deny the application within 60 days of receipt of all required information, as determined by the Zoning Administrator. If the application is not approved, approved with conditions, or denied within 60 days, the application shall be considered approved and the

Zoning Administrator shall be considered to have made any determination required for approval.

C. New facilities. A new wireless communication facility is permitted in the Industrial (I) or Agricultural - Rural Residential (AG-RR) District if authorized by the Planning Commission as a special land use. Such facilities shall comply with the following conditions:

- (1) Height. The maximum height for a wireless communication tower shall be 199 feet, unless a radio frequency engineer or similarly qualified professional demonstrates to the satisfaction of the Planning Commission that a taller tower is necessary.
- (2) Construction. The applicant shall provide all appropriate engineering information site plans and drawings to the Zoning Administrator at the date of application. No building other than the associated support building or cabinet, sidewalk, parking lot or other area with anticipated pedestrian or vehicular traffic shall be permitted within the self-collapsing or "fall zone" area.
- (3) Compatibility. The wireless communication facility and associated buildings or structures shall be aesthetically and architecturally compatible with the surrounding environment and be in full compliance with all local, state and federal regulations and laws. The Planning Commission may require the use of residentially compatible materials, such as wood, brick and stucco, for associated support buildings or structures, designed to architecturally match the exterior of residential structures within the neighborhood. Further, the Planning Commission may require fencing and/or landscaping around accessory buildings or cabinets, guy wire anchor points, or other parts of the facility to screen them from view from adjacent property or roadways.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- (4) Review requirements. In addition to the requirements of this section, an application for a new wireless communication facility shall include the following information:
 - (a) Name, address, phone numbers and signatures of the applicant, proposed operator and property owner of the site.
 - (b) Name and address, including phone number, of the person responsible for determining feasibility of co-location as provided in this section.
 - (c) The existing form of technology being used and any changes to that technology.
 - (d) Documentation that the applicant has investigated the potential of co-location with other wireless communication service providers or owners of wireless communications support structures located in the Township or neighboring communities and which may meet the coverage needs of the applicant.
 - (e) Written materials which document the need for the proposed location.
 - (f) A set of drawings sealed by a professional engineer of all proposed wireless communications equipment, wireless communications support structures, buildings, structures and cabinets, including elevations and renderings, showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.
 - (g) A description of a maintenance plan relating to the proposed wireless communications equipment, wireless communications support structures, buildings, structures, cabinets and surrounding landscape.
 - (h) Radio-frequency propagation or coverage maps showing signal strength information for the vicinity, both with and without the proposed tower.
 - (i) Registered engineer's certification of the design and safety of the proposed tower, which shall set forth the fall zone area for the proposed tower. If such fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such certification shall provide structural calculations and detail sufficient to demonstrate the

accuracy of such lesser fall zone area determination. Such certification shall be provided by an engineer licensed to practice in Michigan.

- (j) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 - (k) A statement signed by the applicant, indicating the number and type of additional antenna the proposed facility will accommodate through co-location.
 - (l) Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure.
 - (m) The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
 - (n) Third-party review and additional studies:
 - [1] A qualified, independent third-party review of the special land use application, or any or all additional studies, may be required by the Planning Commission. Further, the Planning Commission may require additional studies not specifically required by this section if the Commission determines that such additional studies will aid in the evaluation and review of the proposed wireless communication facility. The fees of the independent third-party review and for any additional studies required by the Planning Commission shall be paid for by the applicant.
 - [2] Once all required materials are submitted, the Planning Commission shall review the application in accordance with the standards of this section and shall either approve, approve with conditions, or deny the application for a new wireless communication facility within 90 days of receipt of all required information, as determined by the Zoning Administrator. If the Planning Commission does not approve, approve with conditions, or deny the application within 90 days, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.
- (5) Location criteria.
- (a) Facilities shall be sited to minimize views from residential areas or the public right-of-way.
 - (b) The structure shall be located on a site of sufficient size such that the entire fall zone is located on the parcel where the wireless communication antenna is proposed.
 - (c) Minimum spacing between towers shall be at least two miles unless the applicant demonstrates to the Planning Commission's satisfaction that such spacing is not feasible.
- (6) Development and design standards.
- (a) All wireless communication towers shall be of a monopole design, unless the applicant demonstrates to the Planning Commission's satisfaction that a guyed or lattice tower design is needed.
 - (b) All wireless communication towers, facilities, structures, cabinets, and equipment shall comply with all applicable state construction and electrical codes and local building permit requirements. Wireless communication towers and all associated equipment and accessory structures, including cabinets, guy wires, and related structures, shall be set back from any lot line a minimum of 150 feet, or a distance equal to or greater than the height of the tower, whichever is greater.

- (c) Wireless communication facilities shall be painted in unobtrusive colors.
- (d) Wireless communication towers shall be designed to prevent unauthorized climbing.
- (e) When the FAA or other federal or state authority requires lighting, it shall be the minimum required to meet regulations. It shall be oriented inward so as not to project onto surrounding properties. If not required by the FAA or MDOT, the wireless communication tower shall not be lit.
- (f) The Planning Commission may require anti-climbing devices and security fencing of at least six feet preventing access to the associated building, cabinet or structures, tower, and/or guyed wires.
- (g) Signs and logos are prohibited on the tower.
- (h) Electric, telephone and other utilities servicing a facility shall be buried underground.
- (i) Towers shall be located so that they do not interfere with television, radio, or shortwave radio reception in nearby residential areas.
- (j) Existing on-site vegetation shall be preserved to the maximum extent practicable. However, the site shall be maintained in harmony with the surrounding properties.
- (k) Where the property line of a site containing a wireless communication facility abuts a residential zoned or used area, the operator shall provide a plant screen sufficient in density and height so as to have an immediate buffering impact on adjacent property.
- (l) There shall be no employees located on the site on a permanent basis to service or maintain the facility. Occasional or temporary repair and service activities are excluded from this restriction.
- (m) Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable Township, county, state, and federal statutes, regulations, and standards.
- (n) Towers with antenna shall be designed to withstand a uniform wind loading as prescribed in the Building Code.^[2]
[2] Editor's Note: See Ch. 135, Construction Standards and Enforcement, Art. I.
- (o) Structures shall be subject to current state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- (p) All wireless communication towers associated with the wireless communication facility shall be located on the property owned or leased by the communications company operating the facility, including all guyed wires and anchors relating thereto.
- (q) The access road leading to the facility shall be constructed of gravel and/or aggregate sufficient to maintain adequate access to the site. A driveway permit, where necessary, will be sought and received by the applicant prior to issuance of any building permit.
- (r) The applicant is responsible for seeking and receiving any and all permits required for the site location, including but not limited to FAA, Michigan Aeronautics Commission, Berrien County Road Commission, or other federal, state, or local agencies.
- (s) Wireless communication equipment and wireless communication support structures shall be regulated and permitted pursuant to this section. They shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (t) All new wireless communication facilities shall be designed within the applicable ANSI standards.

- (7) Co-location and construction. Any proposed tower shall be designed and constructed to accommodate future co-location. Towers must be designed to allow for future arrangement of antennas upon the tower and to accept not less than three antennas mounted at varying heights. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures, and existing wireless communication towers. If an owner/operator of an existing tower fails to or refuses to permit co-location, such a structure shall be a nonconforming structure and shall not be altered or expanded in any way and shall be prohibited from receiving approval for a new tower within the Township for a period of five years from the date of the failure or refusal to permit the co-location. As a condition of the special land use, the applicant will be requested to allow co-location of municipal antennas on the tower for fire and police use.
- (8) Discontinuance and removal.
 - (a) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners when a wireless communication tower has not been used for a period of 90 consecutive days.
 - (b) Upon the occurrence of the discontinuance of a wireless communication facility specified above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.
- (9) Removal guarantee required.
 - (a) At the time of approval of a wireless communication facility, the applicant shall submit a financial guarantee of an amount to be determined by the Township, to cover the cost for removal of the wireless communication facility pursuant to this Subsection **C(9)**. This removal guarantee shall be in place as long as the wireless communication facility is active and operational and shall be reviewed at least every 10 years to ensure the amount of the guarantee sufficiently covers the cost of removal.
 - (b) If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the removal guarantee posted at the time application was made for establishing the facility.
- (10) Performance guarantee. The Planning Commission may require a performance guarantee pursuant to § 380-21.07 of this chapter.

§ 380-15.33. Contractor storage yards.

[Added 1-14-2019 by Ord. No. 6C]

- A. All site ingress and egress shall be directly from a paved public road.
- B. Outdoor storage areas for vehicles, materials, and equipment used in connection with the business shall be fully enclosed by a fence, wall, or landscaped area not less than six feet in height. The Planning Commission may waive this requirement if existing vegetation adequately screens the use from adjacent properties and public rights-of-way.
- C. A contractor storage yard shall be located on a parcel at least five acres in area.
- D. Except for temporary staging, retrieving, and storage of materials and equipment within a fenced and screened outdoor storage area, all work associated with the business shall be conducted indoors.

- E. Storage of fuel or other hazard substances must be within EPA-approved containers and located in such a manner to avoid spilling or contaminating groundwater.
- F. The Planning Commission may establish hours of operation and require other operational conditions for contractor storage yards.

§ 380-15.34. Restaurants accessory to existing recreational facility.

[Added 8-10-2020 by Ord. No. 61]

- A. Site ingress and egress shall be directly from a paved public road.
- B. The Planning Commission shall establish hours of operation and may require other operational conditions for a restaurant.
- C. Within the AG-RR District, restaurants when conducted as an accessory use to an existing recreational facility may be permitted where the Planning Commission finds that a restaurant shall not undermine the fundamental agricultural character of the district.
- D. The restaurant activity shall be conducted in part as an ancillary element to the recreational facility while being open to the public.
- E. The total floor area of the restaurant shall not exceed 50% of the building which hosts the recreational facility.

Article XVI. Site Plan Review

§ 380-16.01. Purpose.

The intent of this article is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may accomplish his/her objectives in the utilization of land within the regulations of this chapter, with minimal adverse effect on the land, shores, roadways, natural features, infrastructure, and on existing and future uses of property in the immediate vicinity, and to ensure that a proposed land use or activity is in compliance with this chapter. In this connection, a site plan includes the documents and drawings required by this chapter to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

§ 380-16.02. Scope.

A site plan shall be prepared pursuant to this Article **XVI** for all permitted and special land uses under this chapter, with the exception of buildings used in connection with a farm operation. For single-family dwellings, minor home occupations and accessory buildings with a footprint less than or equal to that of the principal dwelling, a sketch plan may be substituted for a complete site plan when it illustrates the parcel boundaries, the location of existing and proposed structures and any natural features on the site. When site plan review is required by another section of this chapter, the Zoning Administrator shall not issue a land use permit for construction of any use until a site plan, submitted in accordance with this section, shall have been reviewed and approved by the Planning Commission.

§ 380-16.03. Optional sketch plan review.

Preliminary sketches of proposed site and development plans may be submitted for review to the Zoning Administrator and/or the Planning Commission or a committee of the Planning Commission,

prior to official review and approval. The purpose of such procedure is to allow discussion between an applicant and the Zoning Administrator and/or Planning Commission, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

- A. Such sketch plans shall, at a minimum, include the following:
- (1) The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.
 - (2) Legal description, property parcel number, and street address of the subject parcel of land.
 - (3) Sketch plans showing tentative site and development plans, produced on a scaled drawing illustrating existing and proposed structures, parcel boundaries, natural features, and all improvements, easements, streets, and sidewalks.
- B. The Planning Commission shall not be bound by any comments or observations made pertaining to a sketch plan.

§ 380-16.04. Application procedure.

A request for site plan review shall be made by filing with the Zoning Administrator the required filing fee and escrow, the application form and a site plan that contains all of the information required in this section, together with any special studies required. The Planning Commission may waive any site plan application submittal requirement upon a finding that the required information is not applicable to the site.

- A. An application fee and review escrow as determined by resolution of the Township Board.
- B. A copy of the completed application form for site plan review, which shall contain, as a minimum, the following information:
- (1) Name and address of the applicant and property owner;
 - (2) Address and common description of property and complete legal description;
 - (3) Dimensions of land and total acreage;
 - (4) Zoning on the site and all adjacent properties;
 - (5) Description of proposed project or use, type of building or structures, and name of proposed development, if applicable;
 - (6) Name and address of firm or individual who prepared the site plan; and
 - (7) Proof of property ownership or intent to purchase.
- C. Twelve copies of the site plan, as well as one disk with a .pdf file of the site plan, and one 11 inches by 17 inches reduced copy of the site plan. It shall be prepared by an engineer, architect, landscape architect or planner licensed to work in Michigan and shall include and illustrate, at a minimum, the following information:
- (1) Site plan description and identification data.
 - (a) An overall plan for the entire development, drawn to an engineer's scale of not less than one inch equals 50 feet for property less than three acres, or one inch equals 100 feet for property three acres or more in size;
 - (b) Title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions;

- (c) Scale and North arrow;
 - (d) Location map drawn to a separate scale with North point, showing surrounding land, water features, zoning and streets within a quarter mile;
 - (e) Legal and common description of the property;
 - (f) Identification of architect, engineer, or land surveyor who prepared the drawings (identification and seal required for detailed site plans);
 - (g) Zoning classification of petitioner's parcel and all abutting parcels;
 - (h) Proximity to section corner and major thoroughfares;
 - (i) Net acreage (minus rights-of-way) and total acreage; and
 - (j) Boundary survey in compliance with PA 132.^[1]
[1] Editor's Note: See MCLA § 54.211 et seq.
- (2) Site data.
- (a) Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site;
 - (b) Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a USGS bench mark;
 - (c) Proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements on the site and within 100 feet of the site;
 - (d) Location of existing drainage courses, streams and wetlands, if applicable;
 - (e) All existing and proposed easements;
 - (f) Location of exterior lighting (site and building lighting);
 - (g) Location of trash receptacle(s), dumpsters and transformer pad(s) and method of screening; and
 - (h) Extent of any outdoor sales or display area.
- (3) Access and circulation.
- (a) Dimensions, curve radii and center lines of existing and proposed access points, roads and road rights-of-way or access easements;
 - (b) Opposing driveways and intersections within 250 feet of site;
 - (c) Cross-section details of proposed roads, driveways, parking lots, sidewalks and nonmotorized paths, illustrating materials and thickness;
 - (d) Dimensions of acceleration, deceleration, and passing lanes;
 - (e) Proposed road locations and widths;
 - (f) Proposed road grades;
 - (g) Dimensions of parking spaces, islands, circulation aisles and loading zones;
 - (h) Calculations for required number of parking and loading spaces;
 - (i) Designation of fire lanes;
 - (j) Traffic regulatory signs and pavement markings;

- (k) Location of existing and proposed sidewalks/pathways within the site or right-of-way;
 - (l) Location, height, and outside dimensions of all storage areas and facilities.
- (4) Landscape plans.
- (a) General location of existing trees;
 - (b) Location, sizes, and types of existing trees six inches or greater in diameter, with an identification of materials to be removed and materials to be preserved;
 - (c) Description of methods to preserve existing landscaping;
 - (d) The location of existing and proposed lawns and landscaped areas;
 - (e) Landscape plan, including location and type of proposed shrubs, trees, and other plant material;
 - (f) Landscape irrigation plan;
 - (g) Planting list for proposed landscape materials with caliper size or height of material, method of installation, botanical and common names, and quantity.
- (5) Building and structure details.
- (a) Location, height, and outside dimensions of all proposed buildings or structures;
 - (b) Building floor plans and total floor area;
 - (c) Details on accessory structures and any screening;
 - (d) Location, size, height and material of construction for all obscuring wall(s) or berm(s) with cross-sections, where required;
 - (e) Building facade elevations for all sides, drawn at an appropriate scale;
 - (f) Existing and proposed grades;
 - (g) Description of exterior building materials and colors; and
 - (h) Digital renderings illustrating the appearance of the site both before and after site development shall be required for any proposal that includes more than 50 dwellings or has more than 50,000 square feet of floor area.
- (6) Information regarding utilities, drainage and related issues.
- (a) Location of sanitary sewers and septic systems, existing and proposed;
 - (b) Location and size of existing and proposed water mains, well sites, water service, storm sewers loads, and fire hydrants;
 - (c) Conceptual drainage plan;
 - (d) Site grading, drainage patterns and other stormwater management measures;
 - (e) Stormwater retention and detention ponds, including grading, side slopes, depth, high-water elevation, volume and outfalls; also list the nonstructural design strategies used to reduce runoff from the subject property (such as use of native plants, rain gardens, porous pavement or other infiltration techniques);
 - (f) A drainage plan prepared and sealed by a licensed professional engineer, identifying measures to be used for control and disposal of stormwater runoff from the site. The drainage plan shall identify sizes and dimensions of all drainage structures, and the method, assumptions, and calculations used in the design of drainage facilities and control of runoff;

- (g) Location of above- and below-ground gas, electric and telephone lines;
 - (h) Location of transformers and utility boxes;
 - (i) Size, height and method of shielding for all site and building lighting;
 - (j) Location, size, height, and lighting of all proposed site and wall signs;
 - (k) Photometric grid indicating lighting intensities on the site and at all site boundaries.
- (7) Additional information required for site condominium projects, townhomes, and/or multiunit development.
- (a) The number and location of each type of residential unit (one-bedroom units, two-bedroom units);
 - (b) Density calculations by type of residential unit (dwelling units per acre);
 - (c) Garage and/or carport locations and details, if proposed;
 - (d) Mailbox clusters;
 - (e) Location, dimensions, floor plans and elevations of common building(s), if applicable;
 - (f) Swimming pool fencing detail, including height and type of fence, if applicable;
 - (g) Location and size of recreation and open space areas;
 - (h) Indication of type of recreation facilities proposed for recreation area;
 - (i) Master deed and bylaws, if applicable; and
 - (j) Design standards, if applicable.
- (8) Other required information.
- (a) Maintenance agreement, when applicable.
 - (b) Easements, when applicable.
- D. Special studies or research. For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the Zoning Administrator or Planning Commission may require any, all or any part of the following reports or studies as a part of a detailed site plan.
- (1) Environmental assessment. An "environmental assessment" shall be a summary review of the environmental impacts of a project in accordance with the following standards:
- (a) The purpose of the environmental assessment shall be:
 - [1] To provide relevant information to the Zoning Administrator or Planning Commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the Township;
 - [2] To inject into the developer's planning process consideration of the characteristics of the land and the interests of the community at large; and
 - [3] To facilitate participation of the citizens of the community in the review of substantial developments.
 - (b) Guidelines. When required by the Planning Commission or the Zoning Administrator pursuant to this section, an applicant shall prepare an environmental assessment in accordance with these guidelines. An environmental assessment is not an environmental impact statement, but rather a summary review of the site in question considering the

past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the development plan. The complexity of the environmental assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the environmental assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the Planning Commission or Zoning Administrator may request further elaboration. The Planning Commission or Zoning Administrator may waive elements of these guidelines as either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously; rather, whenever possible, the environmental assessment report shall incorporate a summary of the findings of such study or report in addition to such cross references. In addition, any cross-referenced study or report shall be submitted with the environmental assessment.

- (c) Content. The following material shall be included and/or addressed in the environmental assessment, unless specifically waived by the Zoning Administrator or Planning Commission as not applicable:
- [1] A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:
 - [a] Flora and fauna (be sure to list any endangered species on site).
 - [b] General topography and drainage patterns, including any regulated features, such as wetlands, high-risk erosion areas or other features.
 - [c] Adjacent waterways.
 - [d] Existing wells, approximate depth and use.
 - [2] A description of any asbestos abatement proposed for the site. If applicable, this shall include a description of the method, to be sure this material does not get into the surrounding area.
 - [3] A description of any existing contamination on site. This should include a description of the nature of the contamination on site and what will be done on this project to mitigate or contain it, including the proposed methodology and any state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.
 - [4] If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
 - [5] A description of the existing soils on site and as to the suitability of these soils for the proposed use.
 - [6] A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
 - [7] A description of any emissions from the proposed development as it relates to air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
 - [8] A description of any hazardous materials or waste to be stored on site. This shall include a description of proposed methods to contain such materials and prevent

any migration into adjoining soils or groundwater or into the atmosphere.

- [9] A description of any stormwater or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.
- [10] If a federal, state, or local regulatory authority has conducted an environmental assessment, environmental impact statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
- [11] A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
- [12] A description of the anticipated traffic to be generated by the proposed use.
- [13] A description of plans for site restoration after construction.
- [14] A description of methods to handle sanitary waste for the project both during construction and after completion.
- [15] A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake-draw system, any regulatory requirements that may apply and the status of such regulatory approval.
- [16] A description of any additional items as needed to relay the potential environmental impacts of the proposed project.
- [17] The individual preparing the environmental assessment must sign and seal (if prepared by a registered engineer, land surveyor, community planner or landscape architect) the submitted document.
- (2) Traffic impact study. The Zoning Administrator or Planning Commission may require that a traffic impact study completed by qualified professional be prepared as an attachment to a site plan submitted for any development in the Township meeting the requirements of this section. The purpose of this subsection is to set forth the standards to be used by the Zoning Administrator or Planning Commission in requiring the submission of such a traffic impact study, the required minimum content of such a study and the standards and procedures for the review of its findings.
- (a) Description. A traffic impact study shall include an analysis of the existing traffic conditions on the roadway network in the vicinity of a proposed project, including any accident history, average speeds, average daily and peak hour traffic volumes and levels of service of all key roadway segments and intersections. The study shall further indicate the effect of a proposed development on adjacent roadways and intersections and indicate the anticipated points of origin, direction and volume of traffic flow to and from the proposed development. The study shall be prepared by either a registered professional engineer (PE) or transportation planner with at least five years of experience preparing traffic impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author and specifically describing experience in preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design recommendations, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.
- (b) Criteria for requiring a traffic impact study. The Zoning Administrator or Planning Commission may require that a traffic impact study be prepared as an attachment to a site plan for any proposed commercial, industrial, residential or mixed-use development which has the potential to significantly increase traffic volumes on the surrounding

roadway network. In determining the level of potential impact, the Zoning Administrator or Planning Commission shall consult appropriate planning and engineering texts, including, but not limited to, Trip Generation, published by the Institute of Transportation Engineers, and may seek the counsel of other professionals with experience with developments similar to that proposed. A traffic impact study may be required under this subsection when, in the judgment of the Zoning Administrator or Planning Commission, the proposed development will result in an increase of either the average daily traffic or the peak hour traffic equal to or greater than 10% of the current traffic volume on the adjoining roadway.

- (c) Required study content. In general, a required traffic impact study shall document existing conditions on the existing roadway network, including all intersections within one mile of the proposed development, including average daily traffic and peak hour volumes in all directions, existing turning movements, levels of service, average traffic speeds and accident history. Existing pedestrian and nonmotorized traffic volumes shall also be estimated. The traffic impact study shall project the impact of the proposed development on the roadway network, including all intersections within one mile of the proposed development, including projected average daily traffic and peak hour volumes in all directions, anticipated turning movements and anticipated levels of service. Anticipated impacts on pedestrian and nonmotorized traffic volumes shall also be projected. The following specific elements shall be addressed in a required traffic impact study, unless specifically waived by the Zoning Administrator or Planning Commission:

- [1] A narrative summary at the beginning of the report, including, but not limited to:
 - [a] The applicant and project name.
 - [b] A location map.
 - [c] The size and type of development.
 - [d] Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers' publication, Trip Generation (current edition).
- [2] Project phasing identifying the year of development activities per phase and proposed access plan for each phase.
- [3] A transportation system inventory which describes the physical, functional and operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:
 - [a] Peak hour volumes (existing and projected).
 - [b] Number of lanes.
 - [c] Cross section.
 - [d] Intersection traffic signals and configuration.
 - [e] Traffic signal progression.
 - [f] Percentage of heavy trucks.
 - [g] Adjacent access point locations.
 - [h] Jurisdiction.
 - [i] Grades.

- [4] Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation (MDOT) or Three Oaks Charter Township standards and guides.
 - [5] Capacity analysis shall be performed at each access point. The Township's preference is the use of Highway Capacity Software (HCS 2000™), or a later version thereof. Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within one mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing. A time-space diagram should also be included.
 - [6] A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build-out. The completed analysis shall be summarized in a table showing all the measures of effectiveness (MOE) for all of the above conditions.
 - [7] Required operational changes shall be part of the site plan review and any access permit approval process.
- (d) Evaluation and criteria. As a general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.
 - (e) The Zoning Administrator may be provided to the Township Engineer, Planner and/or an independent traffic engineer or transportation planner to review and comment on any traffic impact study prepared pursuant to this subsection. The cost of any such review shall be borne by the applicant.
- (3) Market study. For unique development proposals, projects that may entail some financial expense or risk on the part of the Township and/or projects that may, in the judgment of the Planning Commission or Zoning Administrator, fundamentally alter the character of the community, the Planning Commission or Zoning Administrator may require a market study to demonstrate a reasonable expectation that a market exists for a proposed development. Such a study shall be prepared in accord with this subsection.
 - (a) Description. A "market study" shall be a detailed and documented analysis of the existing and projected economic conditions in the community that may impact both the proposed demand for the products or services to be generated on a site and the impact on other potentially competing businesses and services in the community that may result from the proposed development.
 - (b) Content. Unless specifically waived by the Zoning Administrator or Planning Commission, a market study shall include the following elements:
 - [1] An executive summary which outlines the key findings of the study.
 - [2] The background for the study, including both project background and the methodology and approach used.
 - [3] An overview of the market area, including area demographic information and a description of the transportation and service infrastructure that would serve the proposed development.
 - [4] A trade area delineation describing the likely geographic area that may be influenced by the proposed development, along with detail on the methodology used in defining

the trade area.

[5] A market feasibility analysis that defines the supply of competing facilities existing and planned in the marketplace, the inventory of alternative sources of supply or services that may compete with the proposed development and the demand for the products and services to be provided by the proposed development. This shall include a supply/demand gap analysis and a description of the ways in which the proposed development may address the gap defined.

[6] The credentials of the author(s) of the market study.

(c) Evaluation. The Zoning Administrator and/or Planning Commission shall review the market study to be satisfied that there is a reasonable expectation that the proposed development will meet with economic success without creating excessive dislocations within the existing marketplace.

§ 380-16.05. Action on application and site plans.

- A. Completeness. Upon receipt of a submitted application and site plan, the Zoning Administrator shall review the plan to determine its completeness. If the submittal is incomplete, the Zoning Administrator shall provide the applicant with a list of items needed to make the submittal complete. If the site plan submittal is complete, the Zoning Administrator shall record the date of receipt and transmit copies thereof to each of the Planning Commissioner; the Fire Department, when necessary; to other area review agencies, such as the Township Engineer, Township Attorney, Township Planner, County Health Department, and Michigan Department of Transportation; and retain at least one copy in the Zoning Administrator's office.
- B. Outside agency approvals. Prior to approval of a site plan, the applicant shall submit documentation indicating that the site plan has been reviewed and approved by any and all required outside agencies, as applicable, and that the plan has been amended as necessary to satisfy any conditions of said approval. Outside agencies for approval may include but are not limited to the following:
- (1) Berrien County Drain Commissioner (BCDC).
 - (2) Berrien County Road Commission (BCRC).
 - (3) Berrien County Health Department (BCHD).
 - (4) Berrien County Planning Commission.
 - (5) Michigan Department of Environmental Quality (MDEQ).
 - (6) Federal Emergency Management Agency (FEMA).
 - (7) Michigan Department of Transportation (MDOT).
- C. Variance. If any condition or feature illustrated on a proposed site plan shall necessitate a variance of the provisions of this chapter, a decision on such variance shall be made by the Zoning Board of Appeals pursuant to Article **XVIII** before consideration of the site plan by the Planning Commission.
- D. Optional hearing. A hearing to consider a site plan may be scheduled upon a decision by the Planning Commission that public input on the proposal may aid its consideration. If such hearing is scheduled, it shall be held within 45 days of the date of the Planning Commission decision to schedule it. The applicant and owners of property adjoining the subject site shall be notified of the date, time and place of the hearing on the application not less than three days prior to such date.
- E. Decisions. After conducting any public hearing, the Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in this

chapter. Any conditions required by the Planning Commission shall be stated, in writing, and shown on the site plan, together with the reasons and delivered to the applicant. Decisions by the Planning Commission shall be made within 100 days of the receipt of the completed application. Any conditions imposed on the application and site plan shall:

- (1) Be designed to protect natural resources; the health, safety, welfare, and social and economic well being of users of the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
 - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of this chapter, and be related to the standards established in the chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- F. Record copies. If approved, two copies of the approved site plan meeting any and all conditions of approval shall be maintained as part of the Township records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed by the applicant and the Chair of the Planning Commission and/or the Zoning Administrator and dated with the date of approval for identification of the approved plans. If any variances from this chapter have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the site plan and delivered to the applicant for information and direction.
- G. Guarantee. To ensure compliance with the site plan, chapter, and any conditions, limitations or requirements imposed on the applicant, the Zoning Administrator and/or Planning Commission may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond in an amount and under conditions permitted by law. Such security shall be deposited with the Township Treasurer at the time of permit issuance authorizing the commencement of such project. Where the project will take more than 90 days to be completed, the Zoning Administrator may authorize a return of a portion of the deposit in reasonable proportion to the completion of the required improvements. Such security shall not exceed the estimated cost to fulfill the required conditions, limitations established for the site plan.

§ 380-16.06. Review criteria.

In the process of reviewing a site plan, the Planning Commission shall consider:

- A. Whether the streets and highways, water distribution lines and facilities, sanitary sewer collection lines and facilities, stormwater facilities, electrical utility lines, communications lines and equipment, sidewalks and other pedestrian access, and other infrastructure as they now exist and may be modified as part of or in conjunction with proposed project or action are reasonably sufficient for the needs existing and planned uses in the Township as a whole, the existing and planned uses in the vicinity of the site, and the existing and planned uses on the site, including during times of reasonably foreseeable strains on such infrastructure due to reasonably frequent weather events, special community-wide events, anticipated construction activity, or similar causes.
- B. Whether the buildings, structures, and entrances thereto proposed to be located upon the site are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. Whether natural features of the landscape are retained, particularly where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of stormwaters.

- D. Whether there are any adverse effects of the proposed development, its uses and any activities emanating therefrom upon owners, occupants, residents, and uses of nearby property.
- E. Whether the proposed development and uses comply with other Township ordinances.
- F. Whether the proposed buildings and other structures on and uses of the site will be compatible with those on nearby property.
- G. Whether the proposed buildings and other structures on and uses of the site will generally support and advance the policies and objectives of the Township's Development Plan.
- H. Whether the proposed buildings and other structures on and uses of the site will comply with applicable laws, rules, regulations, permit and license requirements, orders and directives of other governmental agencies or officials of competent jurisdiction. There is no affirmative duty to make this determination. However, if it seems that violations are likely to result or exist, such likely violations can and should be considered.
- I. Whether all buildings and structures are reasonably accessible to emergency vehicles.
- J. Whether the buildings and structures on the site are accessible for regular maintenance, repair and improvement.
- K. Whether the layout and location of any publicly owned utilities, roads, sidewalks or other infrastructure on the site allow for reasonably normal operation, use, maintenance, repair, replacement and improvement, including snow removal and storage. Except where mitigating circumstances prevent it, all electrical, telecommunication and similar utility systems shall be placed underground.
- L. Whether the proposed development is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
- M. Whether the development provides open areas, green space and other areas.
- N. Whether the development accommodates sight lines and preserves views that are key assets of the community and its character.
- O. Whether the development will be a significant asset to the community's economic development.
- P. Whether the development includes best management practices, and green designs and construction materials and methodologies.
- Q. Whether all applicable local, regional, state and federal statutes are complied with.

§ 380-16.07. Conformity to approved site plans.

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission and/or the Zoning Administrator. If construction and development does not conform to such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission and/or

the Zoning Administrator may, upon proper application, approve an amendment to the site plan pursuant to § 380-16.09.

§ 380-16.08. Term of approval of site plan.

Approval of the site plan shall be valid for a period of one year after the date of approval. The Planning Commission or Zoning Administrator may grant extensions if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a zoning permit has not been obtained and the on-site development actually commenced within said one year, the site plan approval shall become null and void and a site plan approval application shall be required and approved before any construction or earth change is commenced upon the site.

§ 380-16.09. Amendment to site plan.

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures:

- A. The Zoning Administrator may approve minor amendments to a site plan, including:
- (1) Reduction in the number of parking spaces.
 - (2) Changes in the building size, up to 5% of the gross floor area.
 - (3) Movement of buildings or other structures by no more than 10 feet.
 - (4) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size and/or number.
 - (5) Changes to building materials to a comparable or higher quality.
 - (6) Changes in floor plans that do not alter the character of the use.
 - (7) Changes required or requested by the Township, the Berrien County Road Commission, or other county, state or federal regulatory agency in order to conform to other laws or regulations.
- B. Major changes or amendments to an approved site plan involving a change of use, change in the number and location of accesses to public streets and alleys, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes as determined by the Zoning Administrator shall require the approval of the Planning Commission in the same manner as the original application was submitted, reviewed, and approved.

§ 380-16.10. Appeals.

With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administration decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant.

Article XVII. Nonconforming Uses, Buildings and Lots

§ 380-17.01. Continuation of use.

A lawful use of land, structure or a lawful use of land and structure in combination exactly as such existed before the date of adoption of this amendment may be continued, as hereinafter provided, as a nonconforming use or a nonconforming structure.

§ 380-17.02. Repair and alteration of nonconforming uses.

Maintenance and repairs of a building or other structure continuing a nonconforming use is permitted, provided that such repairs do not extend the area or volume of space occupied by the nonconforming use.

§ 380-17.03. Nonconforming residential dwelling alteration permitted.

Any building or other structure containing residential nonconforming uses may be altered in any way to improve its livability, provided that no such alteration may be made which will increase the number of dwelling units or volume of the building.

§ 380-17.04. Change of use and substitution of use.

A nonconforming use may be changed only to a conforming use. A nonconforming use may not be extended to displace a conforming use, nor may a building or structure, regardless of the conformity or ownership, be combined with another building or structure for the purpose of extending an existing nonconforming use or creating a different nonconforming use; provided, however, one nonconforming use may be substituted for an existing nonconforming use when the Zoning Board of Appeals finds the proposed substituting use to be less nonconforming than the existing use.

§ 380-17.05. Restoration of nonconforming use.

A nonconforming use, building or structure damaged by fire, casualty, or act of God may be restored, reconstructed and used as before, provided that the volume of such use, building or structure may not exceed the volume which existed prior to such damage and that any such restoration or reconstruction be substantially completed within one year of the occurrence of the damage.

§ 380-17.06. Time of termination.

A nonconforming use or structure shall be deemed to be permanently discontinued when such use has been discontinued or such building has been unused for a period of one year.

§ 380-17.07. Nonconforming lots in residential districts.

A single-family detached dwelling may be erected on a vacant nonconforming lot located in a residentially zoned district either pursuant to the provisions of § 380-12.07D, when connected to municipal water and wastewater systems or on a lot having an approved on-site wastewater permit issued by the Berrien County Health Department, provided the dwelling conforms to area and the following yard setback requirements:

- A. Front yard. The front yard shall conform to front yard setback requirement of the district in which the lot is located.
- B. Side yard. There shall be a side yard of no less than five feet.

- C. Rear yard. There shall be a rear yard no less than eight feet.

Article XVIII. Board of Appeals

§ 380-18.01. Creation and membership.

The Three Oaks Township Zoning Board of Appeals previously established is hereby continued as the Zoning Board of Appeals (hereinafter called the "ZBA"), which shall perform its duties and exercise its powers as provided in the Zoning Enabling Act,^[1] and in such a way that the objectives of this chapter shall be observed, public safety and welfare secured and substantial justice done. The ZBA shall be composed of the five following members:

- A. The first member of the ZBA shall be a member of the Township Planning Commission appointed by the Township Board of Trustees.
- B. The remaining four members of the ZBA shall be appointed by the Township Board of Trustees. Such members shall be electors of the Township residing in the unincorporated area of the Township, representative of the population distribution and of the various interests present in the Township.
- C. No more than one member of the ZBA may be a member of the Township Board of Trustees.
- D. An elected officer of the Township shall not serve as Chairman of the ZBA. An employee or contractor of the Township Board of Trustees may not serve as a member or an employee of the Township ZBA, with the exception that the recorder, a nonvoting clerical position of the ZBA, may be an employee of the Township.
- E. The term of office for each member shall be three years, and terms shall be staggered; provided, however, that the members of the Zoning Board of Appeals duly holding office at the time of the adoption of this chapter shall remain in office through the completion of their terms of office.
- F. The officers of the ZBA shall consist of a Chairman, Vice Chairman and Secretary to serve for a period of one year, or until successors are elected. Such officers shall be elected by a majority of the ZBA at its April meeting. Such meeting shall be conducted for the purposes of organization, whether or not there are other items of business to be brought before the ZBA.
- G. The Township Board may appoint up to two alternate members for the same terms as the regular members. An alternate may be called to serve as a regular member in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member.

[1] *Editor's Note: See MCLA § 125.3101 et seq.*

§ 380-18.02. Removal.

Members of the ZBA shall be removable by the Township Board for nonperformance of duty or misconduct in office, upon written charges and after public hearing.

§ 380-18.03. Meetings and records.

Meetings of the ZBA shall be held at the call of the Chairman and at such other times as the Board in rules of procedure may specify. All hearings conducted by such Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or,

if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. The record of the proceedings of the Board shall be filed in the office of the Township Clerk and shall be a public record. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

- A. Fees. The Township Board may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Board. Each appeal or application shall be accompanied by the fees and shall be deposited by the Zoning Administrator with the Township Treasurer.
- B. Jurisdiction. The Board shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review, interpretation, and to authorize a variance as defined in this section and laws of the State of Michigan. Such powers include:
- (1) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this chapter.
 - (2) Variance, decision standard. To authorize, upon application, a variance from the strict application of the provisions of this chapter where the ZBA finds the following criteria are met:
 - (a) Basic standards. The ZBA shall find that a variance request meets all of the following standards:
 - [1] The requested variance shall not be contrary to the public interest or to the intent and purpose of this chapter.
 - [2] The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
 - [3] The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property is located.
 - [4] The conditions or situations which necessitate the requested variance are not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.
 - [5] The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
 - [6] There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
 - (b) Special standards. When all of the foregoing basic standards can be satisfied, a variance may be granted when any one of the following special standards can be clearly demonstrated:
 - [1] Where there are practical difficulties which prevent full compliance with the requirements of this chapter. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could incur additional costs to achieve full compliance, or receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this subsection.

- [2] Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
 - [3] Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- C. In granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance.
- (1) Consideration of variance. In consideration of all appeals and all proposed variations from the terms and requirements of this chapter, the ZBA shall, before making any variation from the chapter in a specific case, first determine that the proposed variation, or a lesser variance from the terms of this chapter, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or welfare of the inhabitants of the Township. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.
 - (2) Notice. Upon receipt of a complete application, the Zoning Administrator shall cause notices to be published and delivered in accordance with § 380-21.06 of this chapter. The ZBA may recess a hearing from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required. Applicants shall be represented during the hearing either in person or by agent.
- D. Appeal.
- (1) An appeal may be taken to the Board by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken by the Zoning Administrator as notice of appeal, specifying the grounds thereof.
 - (2) The Zoning Administrator shall transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board after notice of appeal has been filed with him that by reason of fact stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.
 - (3) The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

§ 380-18.04. Time limit on variances.

Any variance or exception granted by the ZBA shall automatically become null and void after a period of 12 months from the date granted unless the applicant shall have taken substantial steps towards effecting the variance within said period; provided, however, that the ZBA may extend such period for a further period of time up to one year upon application without further notice.

§ 380-18.05. Appeals.

The decision of the ZBA shall be final; however, a party aggrieved by the decision of the Zoning Board of Appeals may appeal to a court of competent jurisdiction, to the extent and in the manner permitted by law.

Article XIX. Conditional Rezoning

§ 380-19.01. Intent.

It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, PA 110 of 2006,^[1] 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.

[1] *Editor's Note: See MCLA § 125.3405.*

§ 380-19.02. Application and offer of conditions.

- A. 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.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.
- E. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.
- F. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.
- G. The offer of conditions may be amended during the process of rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board, provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

§ 380-19.03. Planning Commission review.

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this chapter, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

§ 380-19.04. Township Board review.

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this chapter. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with the provisions of the Michigan Zoning Enabling Act, PA 110 of 2006,^[1] refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

[1] *Editor's Note: See MCLA § 125.3101 et seq.*

§ 380-19.05. Approval.

- A. 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.
- B. The statement of conditions shall:
 - (1) 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.
 - (2) Contain a legal description of the land to which it pertains.
 - (3) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.
 - (4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - (5) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the Township with the Register of Deeds.
 - (6) 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.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification, along with a designation that the land was rezoned with a statement of conditions. The Township Clerk shall maintain a listing of all lands rezoned with a statement of conditions.
- D. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the Township with the 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.

- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

§ 380-19.06. Compliance with conditions.

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.
- B. No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

§ 380-19.07. Time period for establishing development or use.

Unless another time period is specified in this chapter 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 one year 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:

- A. 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
- B. 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.

§ 380-19.08. Reversion of zoning.

If approved development and/or use of the rezoned land does not occur within the time frame specified under § 380-19.07 above, then the land shall revert to its former zoning classification. 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.

§ 380-19.09. 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 § 380-19.08 above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds a notice that the statement of conditions is no longer in effect.

§ 380-19.10. Amendment of conditions.

- A. During the time period for commencement of an approved development or use 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.
- B. The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

§ 380-19.11. Township right to rezone.

Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act, PA 110 of 2006.^[1]

[1] *Editor's Note: See MCLA § 125.3101 et seq.*

§ 380-19.12. Failure to offer conditions.

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

§ 380-19.13. Consideration.

In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan.
- B. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.
- D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

Article XX. Amendments

§ 380-20.01. Initiation.

Amendments to this chapter may be initiated by the Township Board upon its own motion, by the Planning Commission, or may be proposed for consideration by the petition of the owners of property which would be involved or affected by such change or amendment. All proposed amendments not originating with the Planning Commission shall first be referred to the Planning Commission for study, review and recommendation.

§ 380-20.02. Planning Commission procedures.

Amendments to this chapter, after review and recommendation of the Planning Commission, may be adopted and enacted by the Township Board. The procedures to be followed in the enactment of an amendment to this chapter are those prescribed by the Michigan Zoning Enabling Act, PA 110 of 2006.

[1]

- A. Application for amending this chapter. An applicant, the Township Board or Planning Commission, upon its own action, may initiate an application for amending this chapter text or map. An application (on a form provided by the Township) shall be filed with the Zoning Administrator, who shall immediately transmit the application to the Planning Commission if the application did not originate from the Planning Commission.
- B. Planning Commission public hearing required. Upon receipt of an application for a zoning amendment, a notice that a request for zoning amendment has been received and that a public hearing will be held shall be provided in accord with § 380-21.06.
- C. Basis for evaluating zoning ordinance text and map amendments. The recommendation of the Planning Commission on an application for a zoning ordinance text or map amendment shall consider the following standards:
 - (1) Whether the proposed amendment will be in substantial conformance with the Three Oaks Township Master Plan;
 - (2) In the case of a Zoning Map amendment, whether the ordinance provides for a reasonable use of the property as it is currently zoned;
 - (3) In the case of a Zoning Map amendment, whether there are other, more appropriate locations for the requested zoning designation in the Township;
 - (4) In the case of a Zoning Map amendment, whether the proposed use and all possible permitted and special land uses will be compatible and in keeping with the character of the surrounding area; and
 - (5) Any such other standards contained in this chapter which relate to the matters under consideration.
- D. Planning Commission review and recommendation. Following the public hearing, the Planning Commission shall review the application for the amendment and comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and recommend approval or denial of the application to the Township Board in a timely manner. The Planning Commission may table the matter to gather additional information. The decision shall be incorporated in a statement of findings and conclusions relative to the amendment under consideration. The decision shall specify the basis for the decision, and any special circumstances considered in arriving at the recommendation, as set forth in Subsection **C** of this section. Immediately upon action by the Planning Commission, the application and all supporting documentation, including the written report of the Planning Commission, shall be transmitted to the Township Clerk for inclusion on the Township Board agenda.
- E. County Planning Commission review. Upon an action duly approved by the Planning Commission, the secretary of the Planning Commission shall inform the Berrien County Planning Commission of such action, in accord with the provisions of the Michigan Zoning Enabling Act, PA 110 of 2006.

[1] *Editor's Note: See MCLA § 125.3101 et seq.*

§ 380-20.03. Township Board review and approval.

Upon receipt of a recommendation by the Township Planning Commission and upon receipt of the Berrien County Planning Commission review, the Township Board shall cause the action to be scheduled for Township Board consideration and action. Prior to consideration of an action to approve or deny a request to amend this chapter, the Township Board shall consider the report and

recommendation of the Planning Commission and Berrien County Planning Commission. The Township Board may provide for an additional public hearing.

Article XXI. Administration; Fees; Violations

§ 380-21.01. Zoning Administrator.

The provisions of this chapter shall be administered by the Zoning Administrator appointed by the Township Board. The Zoning Administrator's duties shall be the administration of this chapter as prescribed by this chapter, including issuance of all zoning compliance statements, whether individual statement or as part of the issuance of a building permit pursuant to the Township Building Code,^[1] acceptance of any and all applications required in the administration of this chapter, any other duties assigned or delegated to the Zoning Administrator by the Township Board.

[1] *Editor's Note: See Ch. 135, Construction Standards and Enforcement, Art. I.*

§ 380-21.02. Enforcement Officer.

The enforcement of this chapter shall be administered and enforced by the Enforcement Officer designated by and responsible to the Township Board.

§ 380-21.03. Duties and powers of Zoning Administrator and Enforcement Officer.

The Zoning Administrator and Enforcement Officer shall have the following powers in addition to those set forth in § 380-21.02 above:

- A. Form of application, permits and certificates. The Zoning Administrator may prescribe the form of all applications, permits (including a Zoning compliance permit when required by the terms of this chapter), and certificates required under the terms of the chapter. If no form is prescribed, a written document in the form of a letter requesting permission, in the case of an application stating precisely what permission is requested, or granting permission, in the case of a permit, stating precisely what permission is granted will suffice.
- B. Receive applications. The Zoning Administrator will receive and examine and certify completeness of all applications for permits, certificates, variances, and all other applications required under the terms of this chapter.
- C. Refer applications to the Planning Commission or Board of Appeals. The Zoning Administrator shall, upon a finding that an application is complete, refer all applications for permits, certificates, variances, special use permits and any other applications to the appropriate body within 20 days upon making determination that the submission is complete.
- D. Issue or deny permits. The Zoning Administrator or Enforcement Officer shall issue permits for construction, alteration, and occupancy of those uses which comply with the requirements of this chapter and all applicable codes and laws. Any denial of permit must be in writing and shall state the reasons for the denial.
- E. Issue notice of violation. The Zoning Administrator or Enforcement Officer must issue a written notice of violation to each owner of record of this chapter, stating the nature of the violations.
- F. Make recommendations. The Zoning Administrator or Enforcement Officer may make recommendations to the Planning Commission, Zoning Board of Appeals for any action deemed necessary.

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

- G. Additional duties and powers. The Zoning Administrator or Enforcement Officer must perform all other duties, and may exercise all other powers and privileges, as may be provided or made necessary by the terms of this chapter.

§ 380-21.04. Fees and escrow accounts.

A schedule of fees necessary for the administration of this chapter shall, from time to time, be established by resolution of the Township Board. The Township may require the deposit of funds by the applicant sufficient to support the costs of third-party reviews of any materials submitted or applications made.

§ 380-21.05. Violations and penalties.

Unless otherwise specifically provided, the violation of any provision, section, rule or regulation or order adopted or issued in pursuance thereof, of this chapter, shall be a municipal civil infraction. Persons determined responsible for a municipal civil infraction shall be punished in accordance with this § 380-21.05.

- A. Penalty. A municipal civil infraction shall be punished by a fine of not less than \$50 nor more than \$2,500, and the costs of prosecution of not less than \$100 nor more than \$500.
- B. Separate offense. Each act of violation and every day during which a violation continues shall be deemed a separate offense.
- C. Additional penalties. The penalty provided by this section shall be in addition to the abatement of the violating condition, any injunctive relief or revocation or any permit or license provided pursuant to this, or any other, ordinance of Three Oaks Township.
- D. Compliance required. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this chapter.
- E. Relief. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

§ 380-21.06. Hearing notice requirements.

All applications for development approval, amendments, variances or other deliberations requiring a public hearing under the terms of this chapter shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006,^[1] and the other provisions of this section with regard to public notification.

- A. Responsibility. When the provisions of this chapter or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Township and mailed or delivered as provided in this section.
- B. Content. All mail, personal and newspaper notices for public hearings shall:
- (1) Describe nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, planned development, variance, appeal, ordinance interpretation or other purpose and the procedures to be followed in evaluating the request.
 - (2) Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the

- location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning or when the request is for an ordinance interpretation not involving a specific property.
- (3) When and where the request will be considered, indicate the date, time and place of the public hearing(s).
 - (4) Indicate when and where written comments will be received concerning the request.
- C. Timing of notice. Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this chapter where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned development, variance, appeal, or ordinance interpretation, publication shall occur and shall be provided as follows:
- (1) Publication shall occur not less than 15 nor more than 45 days before the date the application or other matter will be considered for approval.
 - (2) Personal notice by mail or delivery shall occur not less than 15 nor more than 45 days before the date the application or other matter will be considered for approval.
- D. Distribution of notice. If the hearing involves a request for an interpretation of this chapter by the Zoning Board of Appeals, an appeal of an administrative decision by the Zoning Board of Appeals or consideration of a Zoning Map change involving 10 or fewer adjacent properties, in addition to publication of the notice as required, notice shall be provided by mail or personal delivery to:
- (1) The owner(s) of the property for which approval is being considered and/or to the person(s) requesting the interpretation or appealing the decision, as applicable; and
 - (2) To all persons to whom real property is assessed within 300 feet of the property, regardless of whether the property is located within Three Oaks Township; and
 - (3) Occupant(s) of all structures within 300 feet of the property, regardless of whether the occupant(s) are located within Three Oaks Township. If the name of said occupant(s) is not known, the notice may be addressed to "occupant." Publication shall occur not less than 15 nor more than 45 days before the date the application or other matter will be considered for approval.

[1] *Editor's Note: See MCLA § 125.3101 et seq.*

§ 380-21.07. Performance guarantees.

[Added 9-20-2017 by Ord. No. 6B]

In the interest of ensuring compliance with this chapter provisions, protecting the natural resources and the health, safety and welfare of the residents of the Township, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Zoning Administrator, Planning Commission, Zoning Board of Appeals or Township Board may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to ensure completion of improvements connected with a proposed use as required by this chapter, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping. A performance guarantee may also be required to ensure the removal of buildings, structures or site improvements that have been abandoned as determined by the Township.

- A. "Performance guarantee" as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit, or similar instrument approved by the Township Attorney in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. When a performance guarantee is required, said performance guarantee shall be deposited with the Township Treasurer prior to the issuance of any permits by the Zoning Administrator for the development and use of the land. Upon the deposit of the performance guarantee, when in the

form of a cash deposit or certified check, the Township shall deposit it in an interest-bearing account.

- C. In the event a performance guarantee is required, the applicant and property owner shall also authorize the Township to enter upon the subject property to complete or remove the improvements at the cost of the applicant in the event of default by the applicant and/or property owner. If the amount specified by written notice is not paid within 90 days, it shall become a lien against the property and will be certified as an assessment against the property.
- D. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed and, where appropriate, terms for the removal of said improvements. The period will begin from the date of the issuance of the zoning compliance or special land use permit.
- E. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant 50% of the deposited funds when 60% of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining 50% of the deposited funds when 100% of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with this chapter standards and the specifications of the approved site plan.
- F. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Township Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon, except that the Township shall retain an amount not to exceed 150% the cost of removing an improvement, if required by the Township as a condition of site plan, special land use, or other zoning approval.
- G. In the event the applicant defaults in making or removing the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete or remove the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make or remove the improvements. If the performance guarantee is not sufficient to allow the Township to complete or remove the improvements for which it was posted, the applicant and/or property owner shall be required to pay the Township the amounts by which the costs of completing or removing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee, or a portion thereof, to complete or remove the required improvements, any amounts remaining after said completion or removal shall be applied first to the Township administrative costs in completing or removing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is deposited with the Township and prior to the issuance of a zoning compliance or special land use permit, the applicant and property owner shall enter an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

Article XXII. Terminology

§ 380-22.01. Word use.

For the purpose of this chapter, certain rules of construction apply to the text as follows:

- A. Words used in the present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation or firm as well as an individual.

- C. The word "building" includes the word "structure."
- D. The word "lot" includes the words "plot," "tract" or "parcel."
- E. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- G. Any word or term not interpreted or defined by this article shall be used with a meaning of common or standard utilization.

§ 380-22.02. Definitions.

For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

ACCESS

A way or means of approach to provide year-round automobile and pedestrian ingress and egress to a property or lake.

ACCESSORY BUILDING

A subordinate building located on the same lot as the main building, the use of which is naturally and normally incidental to the main use of the premises. A detached private garage shall be considered an accessory building.

ACCESSORY USES

Whenever an activity (which may or may not be separately listed as a principal use) is conducted in conjunction with another principal use and the former use constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use.

ADAPTIVE REUSE

The development of a new use for an older building or for a building originally designed for a special or specific purpose. "Adaptive reuse" is the redevelopment, including expansion, of an older building into apartments or condominiums, which may include some or all of the ground-floor, on-street frontage committed to retail, office and service uses.

ADULT FOSTER-CARE HOMES

Pursuant to Act 218 of the Public Acts of 1979,^[1] as amended, means a governmental or nongovernmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care homes shall not include nursing homes. Adult foster care homes are regulated by the Department of Social Services under three licenses: six or less capacity, seven to 12 capacity, and 13 to 20 capacity. Six-or-less-capacity establishments are considered a single-family dwelling and are allowed to exist in any residential district. Seven-or-more-capacity establishments are considered a commercial use.

ADULT USES

Adult uses shall mean:

A. ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still- or motion-picture machines,

projectors, or other image-producing devices are maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas (as those terms are defined elsewhere herein).

B. ADULT BOOKSTORE or ADULT VIDEO STORE

- (1) A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
 - (b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.
- (2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and may still be categorized as adult bookstore or adult video store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

C. ADULT BUSINESS

Includes any of the following (all as defined elsewhere in this section of this chapter): adult arcade, adult bookstore, adult video store, adult cabarets, adult motels, adult motion-picture theaters, adult panoramas, adult theaters, escort agency, nude model studios; and sexual encounter centers.

D. ADULT CABARET

A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of seminudity characterized by the exposure of specified anatomical areas;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

E. ADULT ESCORT

A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

F. ADULT ESCORT AGENCY

A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

G. ADULT MOTEL

A hotel, motel or similar commercial establishment which:

- (1) Circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the

public right-of-way which advertises the availability of this adult-type of photographic reproductions;

- (2) Offers a sleeping room for rent for a predesignated period of time that is less than 12 hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 12 hours.

H. **ADULT MOTION-PICTURE THEATER**

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

I. **ADULT PANORAMA**

An establishment having a substantial or significant portion of its business devoted to an entertainment use where patrons view in individual viewing booths, films, tapes or live entertainment showing specified sexual activities or specified anatomical areas.

J. **ADULT THEATER**

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of semi-nudity characterized by the exposure of specified anatomical areas or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

AGRITOURISM ESTABLISHMENT

A commercial enterprise related to farming operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products and which may include farm product retailing and sampling, educational and/or outdoor recreational programs, an accommodation use, farm tours, horseback riding, and similar activities.

[Amended 9-14-2015 by Ord. No. 50]

ASSEMBLY OPERATION

Buildings, structures and premises used for the combining of parts into finished products and/or subassembly components for subsequent finishing on or off site and for the packaging, shipping and receiving of such products.

AUTOMOBILE (MOTOR VEHICLE)

A vehicle, including automobiles, pickup trucks, vans, campers, motorcycles and similar motor-driven vehicles, but shall not include tractor-trailers, semitrucks, construction equipment and similar types of heavy construction vehicles.

AUTOMOBILE (MOTOR VEHICLE), COMMERCIAL

A vehicle used in a business operation, including trucks and automobiles, have informational signage on the exterior body and/or windows noting business or service information.

BED-AND-BREAKFAST

A private residence that offers sleeping accommodations to tourists and is the innkeeper's personal residence.

BILLBOARD

An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

BUILDING

See "structure."

BUILDING AREA

The maximum projected area of a building and its accessory buildings, excluding steps, open porches, terraces and cornices.

BUILDING COVERAGE

The area on a zoning lot occupied by buildings and structures, including accessory buildings.

BUILDING HEIGHT

The vertical distance measured from the grade, as defined herein, to:

- A. If the roof is flat, the highest point;
- B. If a gable, hip, gambrel or mansard roof, the average height measured between the eave and the highest point of the roof;
- C. Where no roof beams exist, or there are structures partly or wholly above the roof, the highest point of the building structure.

BUILDING, PRINCIPAL

The building that contains the principal building use of the parcel of property on which it is situated. In a residential district, a dwelling is the principal building on a parcel of property.

CAMP, RECREATIONAL

An establishment to accommodate an organized, supervised recreational program of outdoor activities for boys, girls or families, normally housed in tents or cabins, usually operated during the summer.

CAR WASH

A building and equipment used for the commercial washing, waxing, and detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated- and hand-wash facilities, as well as any combination thereof.

CEMETERIES

Privately owned property which guarantees perpetual care of grounds used solely for the interment of deceased human beings or customary household pets.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Township Building Official or Inspector pursuant to the Township Building Code^[2] authorizing an occupancy and/or use of land and/or a building or structure pursuant to the Township Building Code and the terms of this chapter.

CLINIC

An establishment where patients who are not lodged overnight are admitted for examination and treatment by a physician or a group of physicians practicing medicine, osteopathy, dentistry, or chiropractic.

COMMON OPEN SPACE

A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, PA 59 of 1978,^[3] as amended) or an area of water, or a combination of land and water, designed and intended for the use and enjoyment of residents or occupants of a development or general public. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the development but shall not include areas reserved for the exclusive use or benefit of any individual tenant or owner, nor any dedicated street or other public right-of-way, driveway, parking area, loading and storage area, and area reserved for non-residential-related use.

CONDOMINIUM PROJECT

A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978^[4]).

CONDOMINIUM SUBDIVISION

A division of land on the basis of condominium ownership which is not subject to the provisions of the Subdivision Control Act of 1967 (PA 288 of 1967,^[5] as amended) but is subject to the requirements of the Condominium Act, Act 59 of 1978,^[6] as amended.

CONDOMINIUM SUBDIVISION PLAN

The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

CONDOMINIUM UNIT

That portion of a condominium project or site condominium subdivision which is designed and intended for separate ownership and use, 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. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" for purposes of determining compliance of a condominium subdivision with provisions of this chapter pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

CONTRACTOR STORAGE YARD

A lot or portion thereof on which construction trade equipment, construction vehicles, and materials associated with off-premises construction projects are parked or temporarily stored. A contractor's storage yard may also include the storage of machinery, equipment, and materials typically used in construction work, the building trades, landscaping, snowplowing, and similar services.

[Added 1-14-2019 by Ord. No. 6C]

DAY-CARE CENTER or CHILD-CARE CENTER

A facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child-care center or day-care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally 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 any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a twelve-month period.
- B. A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

DAY CARE, FAMILY

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

DAY CARE, GROUP

A private home in which more than seven but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian,

except children related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

DENSITY, PLANNED UNIT DEVELOPMENT

The relationship of the total number of dwelling units contained in a planned unit development to the gross acreage of the planned unit development; dwelling units per gross acre.

DUMPSTER

A container used for the temporary storage of rubbish or materials to be recycled pending collection, having capacity of at least one cubic yard.

DWELLING

Any structure or portion thereof which is designed for the use exclusively for residential purposes containing one or more dwelling units.

DWELLING UNIT

A group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes.

DWELLING, ACCESSORY

A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

DWELLING, MULTIPLE-FAMILY

A single building or series of buildings with abutting walls which, in total, contain no more than 12 dwelling units, including condominium developments.

DWELLING, SINGLE-FAMILY

A detached building containing one dwelling unit and designed for, or occupied by, only one family.

DWELLING, TWO-FAMILY

A building containing two separate dwelling units designed for, or occupied by, two families.

EDUCATIONAL FACILITY

Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.

ENFORCEMENT OFFICER

The person charged with the enforcement of this chapter or their designee.

ESSENTIAL SERVICE

The construction, alteration or maintenance by public utilities or government agencies of gas, electrical, steam, or water transmissions or distribution systems, and communications (except cell towers elsewhere regulated in this chapter), collection, supply or disposal systems. These include such equipment as poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals (and signs), hydrants, and other similar equipment. Buildings and transmission facilities which do not provide direct service to local distribution systems are not included.

FAA

The Federal Aviation Administration.

FAMILY

One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boardinghouse, lodging or hotel.

FARM

Real property used for commercial agriculture which may contain other noncontiguous acreage, all of which is operated by a sole proprietorship, partnership, corporation or other business entities, and including all necessary farm buildings, structures and machinery. A farm may or may not contain a farm dwelling unit and may include related activities, such as, but not limited to, grain mills or dairy operations.

FARM ANIMALS

Livestock, including, but not limited to, beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals, raised, fed, bred, housed and/or slaughtered for products useful to humans.

FARM BUILDING

Any building or accessory structure other than a farm or a nonfarm dwelling unit which is used for farm operations, such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and/or milk house.

FARM OPERATION

A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to: marketed produce at roadside stands; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

FARM PRODUCT PROCESSING FACILITY

A facility involved in the complete or partial conversion of any agricultural product into a commercial product of any kind, or in the processing of agricultural-related waste products. A farm product processing facility may include, but shall not be limited to, ethanol processing plants, slaughter operations, canning operations, methane processing and refining plants, and similar facilities.

FARM PRODUCTS

Those plants and animals useful to man and including, but not limited to: forages and sod crops, grains, and feed crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing; fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber or fur.

FCC

The Federal Communications Commission.

FENCE

A constructed barrier erected to enclose, screen, or separate parcels or portions of parcels.

FENCE, DECORATIVE

A fence, as defined herein, which is less than 50% opaque and up to 36 inches in height and which is designed primarily to enhance the aesthetics or attractiveness of the site upon which it is located.

FESTIVAL or EVENT or GATHERING

A "festival," "event" or "gathering" is any fair, festival, or gathering of individuals or similar organized or unorganized activity where patrons watch or participate in entertainment, including, but not limited to, music, shows, concerts, revivals, circuses, carnivals, art shows, antique fairs, street dances, and sporting events not related to a scheduled school athletic event.

FINANCIAL INSTITUTION

Commercial establishments, such as banks, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

FLOOD HAZARD AREA, BOUNDARY MAP

The land in the floodplain in any community which is subject to a 1% or greater chance of flooding in any given year as defined as an area of special flood hazard and designated Zone A on the Flood Insurance Rate Map issued for the Township by the Federal Emergency Management Administration or, in lieu thereof, the area designated as floodplain on the Official Zoning Map.

FLOOR AREA

The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

FUNERAL HOME or MORTUARY

A facility used for the preparation of the deceased for burial and for visitation and for the conduct of memorial and funeral services.

GARAGE, PRIVATE

An accessory building or an accessory portion of a principal building designed or used primarily for the storage of noncommercial motor vehicles and residential tools and equipment owned and used by the occupants of the building to which it is accessory.

GASOLINE STATION WITH CONVENIENCE STORE

Any building, structure or land used for the dispensing, servicing, sale or offering for sale at retail of any automobile fuels, oils, or accessories that also includes a retail establishment offering for sale such items as prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

GOVERNMENTAL OFFICE

The offices of any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, Township, authority, district, or other governmental unit.

GRADE

The median level of the finished surface of the ground adjacent to the exterior walls of the building, determined by subtracting the lowest elevation point from the highest, dividing the result by two and adding the resulting quotient to the lowest point.

GREENHOUSE

Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROSS ACREAGE, PLANNED UNIT DEVELOPMENT

Includes all land area occupied by the planned unit development and excluding portions of said planned unit development lying within an existing public right-of-way or highway.

GROUP HOME

A dwelling or other structure designed to house a business to provide supervised care for one or more children or adults on a twenty-four-hour basis.

HAZARDOUS SUBSTANCES AND POLLUTING MATERIALS

Hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan State Police

Fire Marshal Division; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources; hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.

HEIGHT

See "building height."

HOBBY FARM/SPECIALTY FARM OPERATION

A smallholding or small farm operation that is maintained without expectation of being a primary source of income, or a small farm operation engaged in specialty crops at a modest scale.

HOME OCCUPATION

An activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

HOME OCCUPATION, MAJOR

A home occupation, profession, activity, or use that is evident to neighbors by virtue of an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally associated with a residential community.

HOME OCCUPATION, MINOR

A home occupation involving activities which do not affect the residential character of the neighborhood and which, under normal circumstances, would not be detectable by neighbors.

HOTEL or MOTEL

A building or group of buildings in which lodging or boarding are provided. As such, it is open to the public, as distinguished from a boardinghouse, lodging house or an apartment.

HOUSEHOLD PETS

Include any pets not specifically prohibited by the terms of this chapter and any other Township ordinance. Household pets do not include farm animals.

IMPROVEMENTS

Those features and actions associated with a project 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 a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project which is the subject of zoning approval.

KENNEL

Any lot or premises on which four or more dogs of more than six months in age are kept or boarded temporarily or permanently, for the purpose of breeding, for sale, or otherwise. It shall also include any lot or premises which other fur-bearing household or domestic pets of like number are bred or sold.

LAND DIVISION

The act of creating a lot or parcel of land defined by a metes and bounds description pursuant to Section 108 of the provisions of the Michigan Land Division Act, PA 87 of 1997, as amended (formerly the Michigan Subdivision Control Act).^[7]

LAND DIVISION ACT

The Michigan Land Division Act, PA 87 of 1997, as amended (formerly the Michigan Subdivision Control Act)^[8] and any ordinance adopted by the Three Oaks Board in furtherance of Township duties required of the Act.

LANDFILL AND GAS RECOVERY FACILITY

A regulated and licensed facility for the safe disposal of solid waste, potentially including a facility for the capture, recovery and refinement of gasses generated by natural decomposition.

LANDOWNER OR APPLICANT, PLANNED UNIT DEVELOPMENT

The legal or beneficiary owner or owners of the land proposed to be included in a planned unit development or the holder of an option or contract to purchase the land subject to the proposed planned unit development.

LAUNDRY AND DRY-CLEANING ESTABLISHMENT

A commercial establishment providing cleaning, dry-cleaning and laundry services on site for businesses and residents.

LODGES, FRATERNAL, LABOR AND SOCIAL HALL

A building and related facilities owned or operated by a corporation, association or group of individuals established for the fraternal, social or recreational enrichment of its members and not primarily for profit, whose members meet and pay dues and meet certain prescribed qualifications for membership.

LODGING HOUSE

A building other than a hotel where lodging only is provided for three or more but not more than 20 persons.

LOT

A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for the principal uses and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records.

LOT AREA

The total area within the boundaries of the lot, excluding any road rights-of-way or access easements.

LOT OF RECORD

The recorded legal description of any lot, condominium unit, or parcel of land in the office of the Register of Deeds of Berrien County, State of Michigan, or as a part of an unrecorded plat, development plan, condominium, or subdivision.

LOT WIDTH

The horizontal straight-line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

LOT, CORNER

A lot adjacent to two or more streets at their intersection.

LOT, FLAG

A parcel of land separated from a road right-of-way by another parcel and may be accessed through an easement.

LOT, FRONT OF

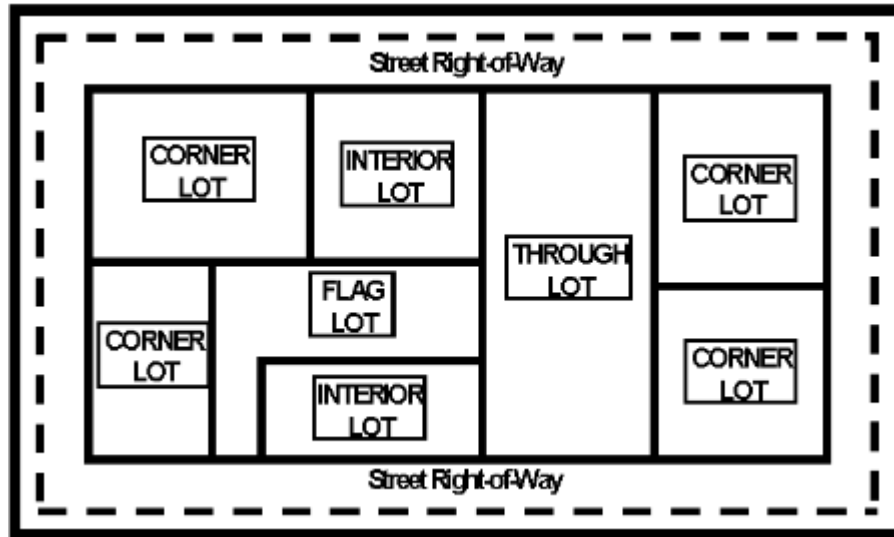
That lot line which is (or contains) the road line of the principal road or right-of-way providing access to the lot.

LOT, INTERIOR

A lot with frontage on one road and abutted by other lots.

LOT, THROUGH

A lot that fronts on two parallel roads or that fronts on two roads that do not intersect at the boundaries of the lot. Also known as a "double frontage lot."



MANUFACTURED HOUSING

As used herein, the term "manufactured housing" shall mean a movable or portable dwelling constructed to be towed on its own chassis and designed for permanent year-round living as a single-family dwelling; provided, however, that the term "manufactured housing" shall not include motor homes, campers, recreational vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and potable water utilities.

MANUFACTURED HOUSING COMMUNITY

An area where three or more manufactured housing units are parked or intended to be parked, designed or intended to be used as living facilities for one or more families.

MASTER DEED

The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by the reference the approved bylaws for the condominium subdivision plan.

MINI-WAREHOUSE, SELF-STORAGE

A building or portions of buildings offered to the public for a fee on a monthly or yearly basis for the storage of goods.

MOBILE HOME

See "manufactured housing."

MOBILE HOME PARK

See "manufactured housing community."

MORTUARY, FUNERAL PARLOR

See "funeral home."

NONCONFORMING STRUCTURE

A building or structure that fails to meet one or more provisions of this chapter.

NONCONFORMING USE

The use of a building, structure, lot or parcel of land that fails to meet one or more of the provisions of this chapter.

NUISANCE

Any activity harmful to the public health which creates an interference in a way of travel, affects public morals or prevents the public from the peaceful use of their land and public streets.

NURSERY

An establishment for the growth, display, and/or wholesale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

NURSING HOME

As pursuant to Act 368 of the Public Acts of 1978,^[9] as amended, means a nursing care facility, including a county medical care facility, but excludes a hospital or a facility which provides organized nursing care and medical treatment to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

OUTDOOR STORAGE

An area of a zoning lot designated by the owner or tenant or used by the owner or tenant for the storage of equipment, motor vehicles of any type (other than parking in a required vehicle parking area) or any other matter, including junk and debris, which may be regulated by this chapter or any other Township ordinance.

PARKING LOT

A tract of land which is used for the storage of motor vehicles and is not accessory to any other use on the same or any other lot, and which contains parking space rented to the general public or reserved for individuals by the hour, week, or month.

PARKING SPACE

A surfaced area, enclosed in the main building, in an accessory building, or unenclosed, having an area of not less than 200 square feet, exclusive of driveways, permanently reserved for temporary storage of one automobile and connected with a street or alley which affords satisfactory ingress and egress for automobiles.

PLACES OF PUBLIC ASSEMBLY

Include theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for entertainment, instruction, worship or similar activities involving assembled groups of people numbering 50 or more.

PLACES OF PUBLIC ASSEMBLY, LARGE

A place of public assembly as defined herein with either 2,000 square feet or more in gross floor area, total seating capacity of more than 100 in the largest room intended for public assembly, or the capability to expand to meet these standards in the future.

PLACES OF PUBLIC ASSEMBLY, SMALL

A place of public assembly as defined herein with less than 2,000 square feet in gross floor area or total seating capacity of not more than 100 in the largest room intended for public assembly.

PLANNED UNIT DEVELOPMENT

An area of minimum contiguous size, as specified by this chapter, to be planned and developed as a single entity containing mixed or varied uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult and costly development problems.

PLAT

The required drawing prepared in accordance with the specification of either the Land Division Act^[10] or Condominium Act^[11] signed by a Michigan registered surveyor which is approved by the Township Planning Commission and/or Township Board to be filed with the Register of Deeds of Berrien County for the conveyance of real property.

PRINCIPAL STRUCTURE (or PRINCIPAL BUILDING)

A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE

The primary or predominant use of any parcel.

PROCESSING AND MANUFACTURING

Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.

PROFESSIONAL OFFICE

A facility used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

PROFESSIONAL SERVICE ESTABLISHMENT

An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, consulting, and other similar services.

PUBLIC ACCESS

A multiboat access site operated by a governmental entity, including access from a public road authorized expressly or impliedly by a governmental entity.

PUBLIC UTILITIES

A drinking and fire-suppression water supply, treatment and distribution system and/or a wastewater collection and treatment system owned and operated by a unit of government.

RECREATION FACILITY, PUBLIC

A recreational facility available to the public which is owned and operated by the State of Michigan, a political subdivision of the State of Michigan, or the U.S. government.

RECREATIONAL FACILITY

A facility providing quiet, personal types of recreation in which customers actively participate, rather than as spectators, and which has been approved as an appropriate and compatible use with the other uses permitted in the zoning district.

RECREATIONAL FACILITY, PRIVATE

A recreational facility available to the public which is privately owned and operated.

RECREATIONAL UNIT

A tent, or a vehicular type structure primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A "tent" means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. "Recreational unit" shall include travel trailers, camping trailers, motor home, truck camper, slide-in camper and chassis-mount camper, as defined in MCLA § 333.12501 et seq. (PA 1978, No. 368).
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

RESIDENTIAL ABOVE RETAIL

A multistory building in which the ground floor area is intended for use by a retail business or office and the upper stories contain one or more dwelling units intended for residential use.

RESTAURANT

A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffeehouses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for takeout.

RETAIL BUSINESS

An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL SALES IN INDUSTRIAL USES

Retail sales to the general public conducted in connection with, and as an ancillary activity to, manufacturing, assembly and production uses within an industrial area.

ROAD

Any existing or planned publicly controlled and dedicated or privately held vehicular accessway used or intended to be used for access to public or private lands and/or for the conveyance of traffic.

ROAD, ACCESS BY EASEMENT; EASEMENT ACCESS

A vehicular accessway constructed within a common easement along with the easement, which provides access to lots within a plat or a nonplatted subdivision of metes-and-bounds-described parcels and which provides continuous access for safety services vehicles operating within the Township.

ROAD, COUNTY STANDARDS

The Standards and Specifications for Subdivision Streets, as adopted by the Berrien County Road Commission.

ROAD, CUL-DE-SAC

A local road of short length having one end terminated by a vehicular turnaround.

ROAD, HIGHWAY

A right-of-way along with related improvements which provides for vehicular and pedestrian access to abutting properties.

ROAD, LOCAL

A public road designated a local road by the Berrien County Road Commission which is not part of the County Primary Road System, which is intended primarily for access to abutting properties.

ROAD, LOCAL ACCESS

Local access roads provide access to homes, farms and other low-intensity land uses. Traffic desires are local in nature and these roads do not require trip continuity for an extended length.

ROAD, MARGINAL ACCESS

A road which is parallel and adjacent to public roads and which provides access to abutting properties and protection from through traffic and not carrying through traffic.

ROAD, PRIMARY

Those roads of considerable continuity which are designated as primary roads by the Berrien County Road Commission.

ROAD, PRIVATE

A road held in private ownership and dedicated to the use of four or more abutting properties which meets the design and construction standards of this chapter.

ROAD, PRIVATE SUBDIVISION

A private road in a platted or condominium subdivision approved by the Berrien County Road Commission pursuant to the Plat Act (Act 288, PA of 1967, as amended).^[12]

ROAD, PUBLIC

A road dedicated to the public, such dedication having been accepted by the appropriate public road commission or Department of Transportation, which meets the minimum construction standards of said road commission or Department of Transportation.

ROAD, SIGHT DISTANCE

The unobstructed vision on a horizontal plane along a road center line from a driver-eye height of 3.5 feet and an object height of six inches.

ROAD, STATE HIGHWAY

State or federal numbered highway.

ROAD, UNREGULATED PRIVATE

A road held in private ownership and contained within and/or abutting not more than three adjoining parcels.

ROADSIDE STAND

A building or structure from which agricultural products produced on the premises are sold.

SERVICE DRIVES

A front or rear interconnection between parcels, and may include the maneuvering lane within a parking lot. A service drive is not a private road.

SETBACK

The minimum required distance between a structure and a property line measured perpendicular from the property line.

SIGN FACE

Each part of a sign structure which is used to graphically communicate a message or announcement, including a border space of not less than three inches outside any lettering or other graphic symbols or depictions.^[13]

SIGN, BUSINESS (ON-PREMISES)

A sign located on the premises where the business establishment is located.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

SIGN, GROUND-MOUNTED (FREESTANDING)

A sign supported by a pole or poles, uprights or braces on the ground that is not attached to a building.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

SIGN, MARQUEE

A projecting sign attached to, or hung from, a marquee; said "marquee" shall be known to mean a canopy or covered structure projecting from, and supported by, a building when the canopy or covered structure extends beyond the building, building line or property line.

SIGN, OFF-PREMISES

Any sign that directs attention to a business, commodity, services or entertainment conducted, offered or sold at a location other than the premises on which the sign is located.

SIGN, PORTABLE

A sign painted on, or in any manner affixed to, a supporting structure which is not permanently attached to the ground or another stationary structure.

SIGN, PYLON (or POLE)

A type of ground sign at least 10 feet above the ground supported on a post(s) or pole(s).

SIGN, ROOF

A sign mounted to the roof of a building.

SIGN, SUBDIVISION

A permanent sign which identifies the name of a residential subdivision or development and is located on the same premises.

SIGN, WALL

A sign affixed flat against the wall of a building, which serves solely to designate the name, or the name and profession, or the business occupation of a person or persons occupying the building to which it is attached.

SIGNS

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, or combinations thereof by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product, which are visible from any public way and used as an outdoor display.

SITE CONDOMINIUM

A method of subdivision where the sale and ownership of land is regulated by the Condominium Act (PA 59 of 1978),^[14] as amended, as opposed to the Land Division Act.^[15]

SITE CONDOMINIUM SUBDIVISION PLAN

The site, survey and utility plans, floor plans, and sections, as appropriate, showing the existing and proposed structures and improvements, including the location thereof in the land.

SITE PLAN

The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation and utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development and legal description pursuant to Article **XVI** of this chapter.

SPECIALTY FARM OPERATION

A farm as defined herein.

SPECIFIED ANATOMICAL AREAS

Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

Includes any of the following:

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

STABLE/RIDING ACADEMY

A building and grounds used or to be used for the housing of horses for hire by the owner or operator thereof and which may or may not provide instruction in horseback riding.

STRUCTURE

Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something have permanent location on the ground, including, but without limiting the generality of the foregoing; advertising signs, billboards, backstops for tennis courts and pergolas.

SUBDIVISION, CONSERVATION

A residential use that divides land into not more than the number of lots permissible in a conventional subdivision of same property in the same zoning district, but where the size of individual lots may be reduced in order to gain common open space.

SUBDIVISION, CONVENTIONAL

A residential use that divides substantially all of the land contained within its boundaries into not more than the number of lots permissible by the applicable zoning district.

TAVERN

An establishment used primarily for the serving of liquor, beer and wine to the general public and where food or packaged liquors may be served or sold only as an accessory to the primary use.

THEATER

A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

TOURIST HOMES

See "lodging homes."

TOWNSHIP USES

Buildings, facilities and grounds owned or leased by Three Oaks Township as a part of its normal municipal responsibilities and duties.

VEHICLE REPAIR FACILITY

A building, structure or parcel of land, or any portion thereof, used for the diagnosing, repairing, cleaning, equipping and/or painting of motor vehicles.

WAREHOUSE

A structure used for storage and repackaging of goods, wares, raw materials, equipment, parts and other materials by and for the owner or operator of the facility, or as a commercial service on behalf of the owner(s) of such items.

WETLAND, REGULATED

As defined in Act 451 of the Public Acts of 1994,^[16] as amended, a "regulated wetland" shall mean land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life.

WIRELESS COMMUNICATIONS ANTENNA

All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including radio and television towers; cellular telephone and paging devices; telephone devices and exchanges; microwave relay towers; telephone transmission equipment buildings; and commercial mobile radio service facilities. (Not included are facilities for citizen band radio; short wave radio; ham and amateur radio; television reception antennae; satellite dishes; and government facilities which are subject to state and federal law.)

[Added 9-20-2017 by Ord. No. 6B]

YARD

An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the

depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the foundation wall of the principal structure shall be used.

YARD, FRONT

A yard extending across the front of the lot between the side lot lines and located between the building and the front lot line.

YARD, REAR

A yard extending across the rear of the lot between the side lines and located between the building and the rear lot line.

YARD, SIDE

A yard between the main building and the side lot line.

ZONING ADMINISTRATOR

The Township Official appointed by the Township Board to administer this chapter.

- [1] *Editor's Note: See MCLA § 400.701 et seq., the Adult Foster Care Facility Licensing Act.*
- [2] *Editor's Note: See Ch. 135, Construction Standards and Enforcement, Art. I.*
- [3] *Editor's Note: See MCLA § 559.101 et seq.*
- [4] *Editor's Note: See MCLA § 559.101 et seq.*
- [5] *Editor's Note: See MCLA § 560.101 et seq.*
- [6] *Editor's Note: See MCLA § 559.101 et seq.*
- [7] *Editor's Note: See MCLA § 560.108.*
- [8] *Editor's Note: See MCLA § 560.101 et seq.*
- [9] *Editor's Note: See MCLA § 333.1101 et seq., the Public Health Code.*
- [10] *Editor's Note: See MCLA § 560.101 et seq.*
- [11] *Editor's Note: See MCLA § 559.101 et seq.*
- [12] *Editor's Note: See MCLA § 560.101 et seq., the Land Division Act.*
- [13] *Editor's Note: The original definition of "sign, bulletin board," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- [14] *Editor's Note: See MCLA § 559.101 et seq.*
- [15] *Editor's Note: See MCLA § 560.101 et seq.*
- [16] *Editor's Note: See MCLA § 324.101 et seq.*

Article XXIII. Severability, Effective Date and Adoption

§ 380-23.01. Severability and validity.

Provided, however, that any provision thereof upon which enforcement action has been commenced or arises from, such provision(s) shall survive this repeal until such time as such enforcement action is concluded.

§ 380-23.02. Conflict with other provisions.

The Zoning Ordinance of Three Oaks Township, Berrien County, Michigan adopted December 12, 1988, and as amended from time to time, is hereby expressly amended in its entirety, and all other ordinances or parts of ordinances in conflict with this chapter are hereby repealed to the extent they conflict with this chapter.

§ 380-23.03. When effective.

This chapter shall become effective eight days following the publication of a notice of adoption.

