

ZONING ORDINANCE

Butler Township
Branch County, Michigan

Prepared by: Butler Township Planning Commission

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September 23, 2003

HOW TO USE THIS ORDINANCE

IF YOU HAVE PROPERTY AND WANT TO KNOW WHAT RULES APPLY:

- Step 1:** Find your zoning district by looking at the Official Zoning Map (large color copy available in the Township offices and a black and white copy is attached to the ordinance).
- Step 2:** Look up the zoning district purpose and intent, found in Chapters 4 through 10.
- Step 3:** Go to the Development Standards section of each zoning district for details on minimum lot size, required yards, and other standards for the zoning district.
- Step 4:** Go to the Permitted Use Regulations section of each zoning district for details on permitted uses in the zoning district.

IF YOU WANT TO ESTABLISH A PARTICULAR USE:

- Step 1:** Go to the Permitted Use Regulations section of each zoning district to determine if the proposed use is permitted in the zoning district. The list may note that there are supplemental design standards for this use in other chapters of the ordinance.
- Step 2:** Go to the Development Standards section of each zoning district to look up design standards for your proposed use and check the provisions of Chapter 14, Development Standards for additional development standards for specific uses.
- Step 3:** Look up the Development Standards in the appropriate zoning district for details on minimum lot size, required yards, and other district standards. You may also be referred to Chapters 11 through 19 for general parking, landscaping, lighting, sign regulations, etc..
- Step 4:** Go to Chapter 12, Site Plan Review and Approval Procedures, for details about the approval process. If the proposed use is identified as a “Special Land Use,” then also look up Chapter 19, Special Land Use Approval Procedures.

IF YOU WANT TO CHANGE YOUR ZONING DISTRICT:

Only the Township Board may rezone property, following public notice and public hearings in front of the Planning Commission and a subsequent meeting by the Township Board itself. See Chapter 22, Amendments to the Zoning Ordinance and Map for more information.

IF YOU WANT TO VARY FROM THE STANDARDS THAT APPLY:

The Zoning Board of Appeals is authorized to grant variances from some of the regulations in this Ordinance in cases of special hardship. See Section 20.04(D), Variances for more information.

IF YOU WANT TO...

...**BUILD A FENCE:** See Chapter 16, General Provisions and Exceptions, Section 16.06 (Fence, Wall and Privacy Screening Regulations).

...**INSTALL A SIGN:** See Chapter 11, Sign Installation Requirements.

...**BUILD A GARAGE:** See Chapter 16, General Provisions and Exceptions, Section 16.27 Accessory Buildings and Structures.

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CHAPTER 2

ZONING DISTRICTS AND MAP

SECTION 2.01 ESTABLISHMENT OF DISTRICTS

Those portions of the Township of Butler, Branch County, Michigan are hereby divided into zoning districts, as named and described in the following Chapters. The boundaries of these zoning districts are established as shown on the Butler Township Zoning Map as established in Section 2.02 of this Ordinance.

SECTION 2.02 CREATION OF ZONING DISTRICTS

For the purpose of this Ordinance, those portions of Butler Township, Branch County, Michigan shall be divided into the following zoning districts, which shall be known by the names and symbols here shown.

AG	Primary Agricultural District
R-1	General Agricultural and Rural Residential District
R-2	Low Density Residential District
R-3	Medium Density Residential District
C-1	Commercial District
I-1	Industrial District

SECTION 2.03 ZONING MAP (see reference Zoning Map at end of this Ordinance)

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

SECTION 2.04 APPLICATION OF THIS ORDINANCE

Except as otherwise provided in this Ordinance, erection of buildings and uses of land shall conform to the specific provisions for the zoning districts involved. No land shall be developed, redeveloped, use commenced, expanded or continued within the Township except as specifically, or by necessary implication, as authorized by this Ordinance. Lawful nonconforming structures and uses existing at the time of passage of this Ordinance are specifically governed by Chapter 17, and generally governed by this Ordinance.

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SECTION 2.05 INTERPRETATION OF DISTRICT BOUNDARIES

1. Unless otherwise shown, the boundaries of the districts are lot lines, the center lines of streets or alleys, or such lines extended, and the limits of Butler Township.

Where a district boundary line as shown on the Zoning Map, divides a lot which was in a single ownership of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the most restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot.

2. Where due to the scale, lack of detail or illegibility of the Zoning Map of this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Zoning Board of Appeals, after recommendation by the Planning Commission.
3. Where a district boundary line follows a shoreline, such boundary shall be construed to be the shoreline. In the event of a change in the shoreline, the boundary line shall be construed to move with the actual shoreline. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be structured to follow such center lines.
4. Boundaries indicated as approximately following platted lot lines, property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or as applicable amended thereto shall be construed as following such lines.
5. Lines parallel to street without indication of the depth from the street line shall be construed as having a depth of three hundred (300) feet from the front lot line.

SECTION 2.06 PERMISSIVE ZONING

Land uses are permitted specifically in the various zoning districts of this Ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted except in accordance with Section 1.05. No land contained within any zoning district within Butler Township shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Chapter 17, Nonconforming Uses and Structures.

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SECTION 2.07 USES PERMITTED BY RIGHT

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

SECTION 2.08 USES PERMITTED UNDER SPECIAL APPROVAL

The uses identified as special approval uses in Chapter 19 covering each district are recognized as possessing characteristics of such unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. Chapter 19 regarding procedure and requirements for special approval uses, shall apply to these uses.

SECTION 2.09 ZONING OF VACATED AREAS

Whenever any street, alley or other public way within the Township shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

SECTION 2.10 AREAS NOT INCLUDED WITHIN A DISTRICT

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

CHAPTER 3

ZONING DEFINITIONS

SECTION 3.01 INTERPRETATION OF LANGUAGE

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

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

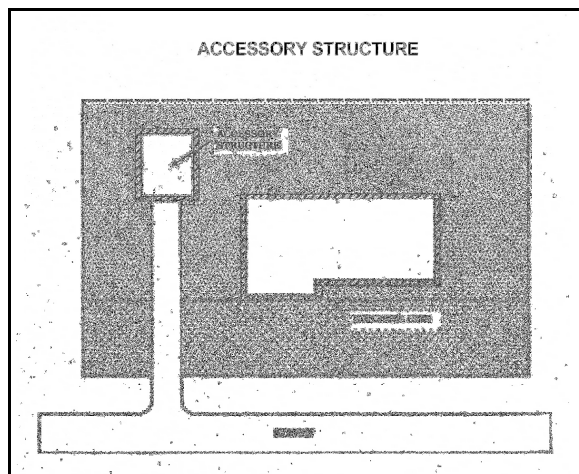
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- (i) Terms not herein defined shall have the meaning customarily assigned to them.

SECTION 3.02 DEFINITIONS

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

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



ADJACENT: See LOT, ADJACENT.

ADULT DAY CARE FACILITY: A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

ADULT USE: Any business which primarily features sexually stimulating material and/or performances, including the following uses:

A. Sexually-oriented Businesses and Adult Uses.

1. 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 to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matters exhibiting, depicting or describing "specified sexual activities" or "specified anatomical areas" as defined herein.
2. Adult Book or Video Store. An establishment having a substantial portion (more than twenty percent (20%)) of its stock in trade in books, magazines, periodicals or other printed matter, photographs, drawings, slides, films, motion pictures, video cassettes or video reproductions, slides, or other

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visual representations, recording tapes and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” or instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities” or “simulated nudity,” which are offered for sale or rental, or an establishment with a segment or section devoted to the sale, rental or display of such material, which segment or section exceeds ten percent (10%) of the usable floor area of the establishment. This does not include items used for conception control or for protection from sexually transmitted diseases.

3. Adult Entertainment Cabaret. A nightclub, bar, lounge, or similar commercial establishment, whether licensed by the Michigan Liquor Control Commission to offer beer or intoxicating liquor for consumption on the premises or not, which provides or features to customers live performances by employees or entertainment personnel which are distinguished or characterized by any one or more of the following:
 - a. An emphasis on the exposure of “specified anatomical areas;” or
 - b. An emphasis on “specified sexual activities;” or
 - c. An emphasis on “nudity,” “state of nudity,” or “simulated nudity;” or
 - d. A combination of any of the above.
4. Adult Model Studio. Any place where models who display “specified anatomical areas” (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
5. Adult Motel. A hotel, motel or similar commercial establishment which rents or otherwise permits a room to be occupied in exchange for any form of consideration, and also:
 - a. Offers accommodations to the tenant or occupier of the room for any television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matters exhibiting, depicting or describing “specified sexual activities” and/or “specified anatomical areas”, and has a sign visible from the public right-of-way or otherwise advertises the availability of this type of adult accommodations; or
 - b. Offers a sleeping room(s) for rent for a period of time that is less than ten hours; or
 - c. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours. Evidence that a sleeping room in a hotel, motel or similar commercial establishment

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has been rented and vacated two or more times in less than a ten-hour period creates a rebuttable presumption that the establishment is operated as an adult motel.

6. **Adult Personal Service Business.** A business having as its principal activity a person, while nude or while displaying specified anatomical areas, providing personal services for another person. Such a business includes, but is not limited to, modeling studios, body painting studios, wrestling studios and conversation parlors.

Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:

- a. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed practical nurse practitioner, or any other similarly licensed or certified medical or healing arts professionals;
 - b. Establishments which offer massages performed by certified massage therapists;
 - c. Gymnasiums, fitness centers and health clubs;
 - d. Electrolysis treatment by a licensed operator of electrolysis equipment;
 - e. Continuing instruction in martial or performing arts, or in organized athletic activities;
 - f. Hospitals, nursing homes, medical clinics, or medical offices;
 - g. Barber shops, beauty parlors, hair stylists and salons which offer massages by certified massage therapists;
 - h. A bar, nightclub or lounge or other non-sexually oriented business that occasionally promotes a swimsuit or similar contest in which the contestants do not appear "nude" or in "a state of nudity;"
 - i. Adult photography studios whose principal business does not include the taking of photographs of "specified anatomical areas" as defined herein.
7. **Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity, or features live performances which are distinguished or characterized by an emphasis on the exposure of "specified anatomical areas" or by an emphasis on "specified sexual activities".

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- a. Adult Motion Picture Arcade or Miniature-Motion Picture Theater. Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to “specified sexual activities” or “specified anatomical areas” (as defined herein).
 - b. Adult Motion Picture Theater. A commercial establishment which regularly features non-live performances or entertainment such as films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis on matters exhibiting, depicting or describing “specified sexual activities and/or “specified anatomical areas”.
 - c. Adult Outdoor Motion Picture Theater. A drive-in theater where a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
8. Escort Service. An establishment which provides the services of escorting members of the opposite sex for payment of a fee.
 9. Nude Modeling Business. An establishment where an employee or entertainment personnel performs a massage or “specified sexual activities” while appearing in a “state of nudity,” “simulated nudity” or while displaying “specified anatomical areas,” and is also provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted to customers.
 10. Nude Modeling Studio. An establishment where an employee or entertainment personnel appears in a “state of nudity,” “simulated nudity” or displays “specified anatomical areas,” and is also provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted to customers.
 11. Sexually Oriented Encounter Center. A commercial enterprise that, for any form of consideration or prize, offers physical activities, contact, wrestling or tumbling between male and female persons, or between persons of the same sex, when one or more of the persons is in a “state of nudity” or “simulated nudity” and the activity is intended to provide sexual stimulation or sexual gratification to its customers.

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12. Sexual Paraphernalia Store. An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage, of instruments, devices, or paraphernalia designed for use related to “specified anatomical areas” or as part of, in connection with, or related to “specified sexual activities” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
- B. Special Definitions. With respect to Adult Regulated Uses or Sexually Oriented Businesses, the following terms and phrases shall have the following meanings:
1. Buttock. The anus and perineum of any person.
 2. Massage. The manipulation of body muscle or tissue, by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another for a fee.
 3. Massage Parlor. An establishment wherein private massage is practiced, used or made available as a primary use of the premises.
 4. Nudity or State of Nudity. Appearing while any of the following portions of the human body are less than completely and opaquely covered:
 - a. Genitals, whether or not in a state of sexual arousal; or
 - b. Pubic region or pubic hair; or
 - c. Buttock(s); or
 - d. The portions of the female breast(s) beginning from a point immediately above the top of the areola and continuing downward to the lowest portion of the breast(s); or
 - e. Any combination of the above.
 5. Nudity, Simulated. A state of dress in which any artificial device of covering is worn on a person and exposed to view so as to simulate an actual “state of nudity”.
 6. Sexual Intercourse. Fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any part of a person’s body, or of any object, into the genital or anal openings of another’s body.
 7. Sodomy. Sexual bestiality.
 8. Specified Anatomical Areas. Portions of the human body defined as follows:
 - a. Less than completely and opaquely covered:
 - (1) Human genitalia and pubic region;
 - (2) Buttock and anus; and
 - (3) Female breast below a point immediately above the top of the areola; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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9. Specified Sexual Activities. The explicit display of one or more of the following:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Fondling or other erotic touching of human genitalia, pubic region, buttocks, anus, or female breast;
 - c. Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy;
 - d. Human excretory functions as part of, or as related to, any of the activities described above;
 - e. Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to, any of the activities described above.

10. Substantial Portion. A use of activity accounting for more than twenty percent (20%) of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month. Also see Section 14.02.

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

ALLEY: A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

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

ALTERNATIVE TOWER STRUCTURE: Man-made trees, clock towers, bell steeples, light poles, and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers

ANIMAL FEEDING OPERATION, CONCENTRATED (CAFO): A lot or building or combination of contiguous lots and buildings intended for the confined feeding, breeding, raising, or holding of at least one-thousand (1,000) animal units and specifically designed as a confinement area where manure may accumulate, or where the concentration of animals is such that vegetative cover cannot be maintained within the enclosure during the

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months of May, June, July, and August. Open lots used for the feeding and rearing of poultry (poultry ranges), shall be considered animal feed lots, but pastures shall not be considered animal feedlots.

ANIMAL HOSPITAL: See CLINIC, VETERINARY.

ANIMAL UNIT: The equivalent of one (1) slaughter or feeder cattle, based on comparative effluent impacts or any combination of which equaling or exceeding one-thousand (1,000) animal units shall be defined as a concentrated animal feeding operation (CAFO)

ANIMAL WASTE AREA: A holding area, underground container, above-ground tank, or lagoon used or intended to be used for the storage or treatment of animal manure and other waste products associated with a concentrated animal feeding operation (CAFO).

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

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

APARTMENT: See DWELLING, MULTIPLE FAMILY.

APPEAL: An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

ARCADE: Any establishment which provided on its premises four or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

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

AREA, GROSS SITE: the total area of a planned unit development site including flood plains and water bodies

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

AUTOMOBILE FUELING STATION: A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile fueling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the fueling station use. Parking requirements for fueling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

AUTOMOBILE REPAIR: Major or minor repair of automobiles defined as follows:

- A. **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

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

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

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

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BANK: An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange. Shall not include drive-in teller windows, booths, and accessory buildings, automated teller machines, etc. designed to serve customers either in their automobiles or on foot.

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

BASEMENT: That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

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

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

BERM: See LANDSCAPING.

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

BILLBOARD (OFF PREMISE SIGN): Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located. Billboards are prohibited throughout Butler Township.

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

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BOARDING HOUSE: A building, other than a hotel, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for three or more persons. A rooming house shall be deemed a boarding house for the purposes of this Ordinance.

BOAT: Boats, floats, rafts, and the attached normal equipment to transport the same on highways.

BREW PUB: A restaurant or tavern (as defined in this Ordinance), licensed by the State of Michigan to produce and manufacture not more than five-thousand (5,000) barrels of beer per calendar year in Michigan, and sell at retail on the premises the beer produced and manufactured for consumption on or off the premises in the manner provided for in MCLA 436.31b and 426.31c.

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

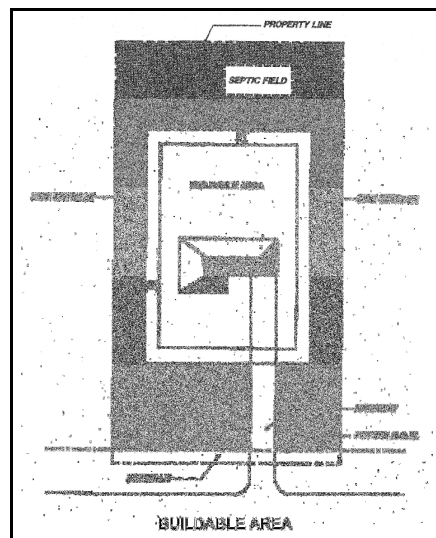
BUILDABLE AREA: The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

BUILDING: Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

BUILDING, ACCESSORY: See ACCESSORY USE, BUILDING, OR STRUCTURE.

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

BUILDING, DETACHED: A principal building surrounded by open space.



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BUILDING HEIGHT: The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75 percent of the height of an "A" frame. Chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

BUILDING INSPECTOR: The building inspector as authorized by Butler Township.

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

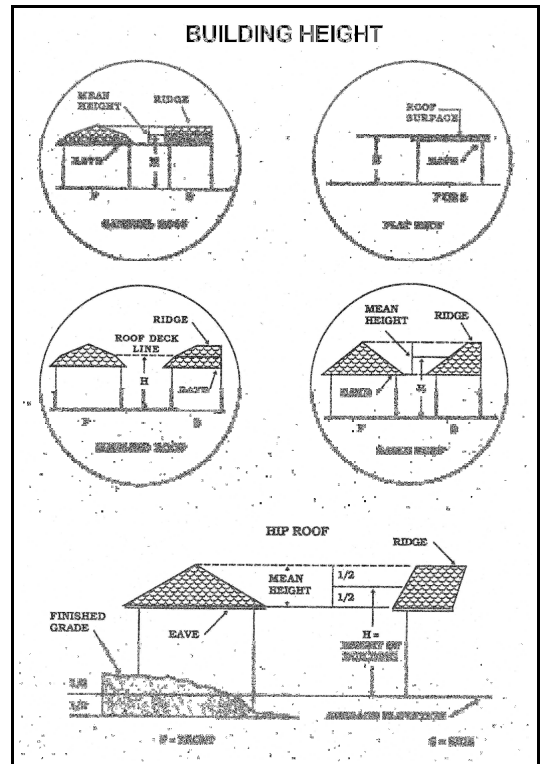
BUILDING PERMIT: The written authority issued by the building inspector permitting the construction, removal, moving, alteration, or use of a building in conformity with the provision of this Ordinance

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

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

BUMPER BLOCKS: Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles. Asphalt bumper blocks may not be used in the Butler Township.

CAMPER, PICK-UP: A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.



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CANOPY TREE: A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to shade to adjacent ground areas and to enhance aesthetics.

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

CERTIFICATE OF OCCUPANCY: A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a zoning permit has been issued shall be occupied until the building inspector has, after final inspection, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance

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

CHILD CARE CENTER: An establishment where more than six (6) children, not related by bonds of consanguinity or fostership to the family residing on the same premises, are cared for in return for remuneration. Such child care centers need not have a resident family on the premises. A child care center may also sometimes be referred to as a NURSERY, DAY NURSERY, DAY CARE CENTER, or NURSERY SCHOOL.

CHURCH OR SYNAGOGUES: Any structure wherein persons regularly assemble for religious activity including customary ancillary or accessory uses and activities.

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

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

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

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CLUB OR LODGE, PRIVATE: A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this Ordinance.

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

COLLECTOR STREET: See STREET, COLLECTOR.

COMMERCIAL CENTER, PLANNED: A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

COMMERCIAL, VEHICLE: A truck or motor vehicle with cab and chassis and with a stake, rack, body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of 9 feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

COMMISSION: The Planning Commission of Butler Township.

COMPREHENSIVE PLAN: See MASTER PLAN.

CONDITIONAL USE: A use which is subject to conditional special approval by the Township Planning Commission. A conditional use may be granted only when there is a specific provision in this Ordinance. A conditional use is not considered to be a nonconforming use and is distinct from a Special Land Use. See SPECIAL LAND USE.

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

Condominium Act: State of Michigan Public Act 59 of 1978, as amended.

Condominium, Contractible: A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with The Township of Butler Code of Ordinances.

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

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

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

Condominium - General Common Element: The common elements other than the limited common elements intended for the common use of all of the co-owners.

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

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

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

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

CONDOMINIUM UNIT: The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended

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for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

CONVALESCENT HOME: See NURSING HOME.

CO-OP (COOPERATIVE) HOUSING: A multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

CORNER LOT: See LOT, CORNER.

CUL-DE-SAC: See STREET, CUL-DE-SAC.

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

DAY CARE CENTER: See CHILD CARE CENTER.

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

DENSITY: The number of dwelling units situated on or to be developed per net or gross acre of land.

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

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

DEVELOPMENT PLAN: A scaled drawing which shows the existing conditions, the location and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

DISTRIBUTION CENTER: A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in

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connection with the distribution operations of a wholesale or retail supply business. See also WAREHOUSE.

DISTRICT: A portion of Butler Township within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

DRAINAGE WAYS AND STREAMS: Existing permanent or intermittent watercourses.

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

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

DRIVEWAY: That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

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

DWELLING: A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance.

DWELLING, MANUFACTURED: A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and

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- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

Also refer to DWELLING, ONE FAMILY OR SINGLE FAMILY.

DWELLING, MOBILE HOME: A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance. A mobile home is a type of manufactured housing. Also see DWELLING, ONE FAMILY OR SINGLE FAMILY.

DWELLING, MULTIPLE-FAMILY: A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

- A. **Apartment:** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

DWELLING, ONE-FAMILY OR SINGLE-FAMILY: A detached building containing not more than one dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of 24 feet and complies in all respects with the Township building code, 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 Township building code, then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one family dwellings, which exist as of the effective date of this Ordinance, non-conforming.

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- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one- family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling 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.
- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to 10 percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Building Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of thirty (30) days from the receipt of notice of said Building Official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single family "dwelling" as well as the character, design and appearance of one or more residential dwellings to the extent of less than twenty (20) percent 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 Township.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure,

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including permanent attachments to the principal structure and construction of foundations as required herein.

- H. 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 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard 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.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

DWELLING, TWO-FAMILY OR DUPLEX: A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

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

DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE: A Townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

DRIVE-IN THEATER: An open-air theater constructed and operated at an established location, without cover or roof, displaying motion pictures for the general public who view the screen or stage while seated in a vehicle. The term "drive-in theater" as used herein shall include the entire premises upon which such theater is constructed and operated, including parking areas and all other facilities accessory to such business.

DUPLEX: See DWELLING, TWO FAMILY OR DUPLEX.

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EARTH-SHELTERED HOME: A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

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

EFFICIENCY UNIT: See DWELLING, MULTIPLE FAMILY.

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

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

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

FAMILY:

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, nontransient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose

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domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

FAMILY DAY CARE HOME: A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

FARM: All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this Ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, commercial dog kennels, game fish hatcheries, piggeries, stockyards, or gravel or sand pits, unless such establishments are combined with other bona fide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto and for the use and consumption by persons residing on the premises.

A farm permitted by this Ordinance is not intended nor implied to permit trucking, equipment and/or sales, contractor yards or any other activities other than those incidental to the bonafide farm.

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

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

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

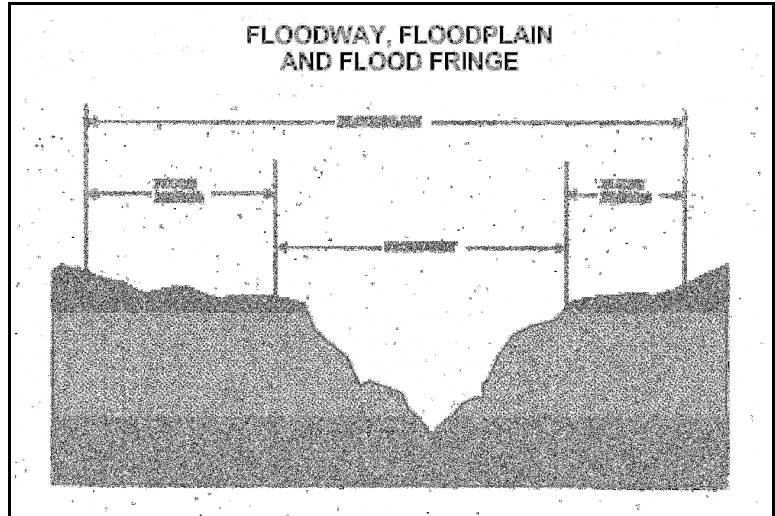
Butler Township Zoning Ordinance

Flood Hazard Area:

Land which on the basis of available flood plain information is subject to a one percent (1%) or greater chance of flooding in any given year.

Flood Hazard Boundary Map (FHBM):

An official map of the community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazard areas have been designated as Zone A.



where the boundaries of the areas of special flood hazard areas have been designated as Zone A.

Flood Insurance Rate Map (FIRM): An official map of a community, issued by the Federal Insurance Administration, which has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map, and the water surface elevation of the base flood.

Flooding, Area of Shallow: A designated AO Zone on the Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.

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

Flood Plain: Any land area susceptible to being inundated by water from any source (See Flood.)

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

Butler Township Zoning Ordinance

FLOOR AREA: The area of a building defined as follows.

- A. Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. Floor Area, Net:** See FLOOR AREA, USABLE RESIDENTIAL and FLOOR AREA, USABLE NONRESIDENTIAL.
- C. Floor Area, Usable Residential:** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. Floor Area, Usable Nonresidential:** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which issued for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area. See illustration on next page.
- E. Floor Area Ratio (FAR):** The ratio between the maximum allowable amount of floor space on all floors in a building and the total area of the lot on which the building is located.

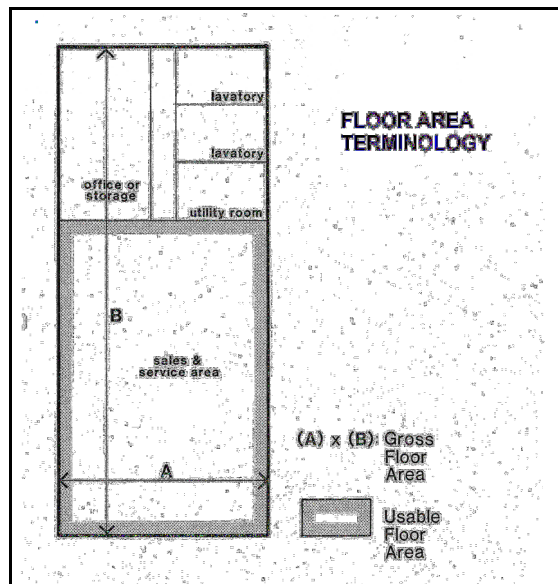
FOSTER CARE HOME: See STATE LICENSED RESIDENTIAL FACILITY.

FOSTER CHILD: A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

FRATERNAL ORGANIZATION: See CLUB.

FRONT LOT LINE: See LOT LINE, FRONT.

FRONT YARD: See YARD, FRONT.



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

GARAGE, PUBLIC: Any building or premise, other than junkyard, where more than one motor vehicle is stored for compensation.

GARAGE, REPAIR: See AUTOMOBILE REPAIR GARAGE.

GARBAGE: All wastes, animal, fish, fowl, or vegetable matter incident to the preparation, use, and storage of food for human consumption, spoiled food, animal, and fowl manure.

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

GAS STATION: See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

GLARE: The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

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

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

GRADE: A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GRADE, AVERAGE: The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

GRADE, FINISHED: The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

GREENWAY: See LANDSCAPING.

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GROUP DAY CARE HOME: A private home in which more than six (6) 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 (4) weeks during a calendar year.

GROUP HOMES: See STATE LICENSED RESIDENTIAL FACILITY.

GYM OR GYMNASIUM: A room or building equipped for gymnastics, exercise, or sport.

HAZARDOUS SUBSTANCES: Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

HEIGHT, BUILDING: See BUILDING HEIGHT.

HIGHWAY: See STREET.

HOME OCCUPATION: Any occupation conducted within a dwelling unit and carried on by the inhabitants thereof. Home occupations may provide for up to two (2) full-time non-resident employees. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby.

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

HOSPITAL, VETERINARY: See CLINIC, VETERINARY.

HOTEL: A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

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

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- A. Senior Apartments: Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. Elderly Housing Complex: A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years or older or couples where either the husband or wife is sixty (60) years of age or older.
- C. Congregate or Interim Care Housing: A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. Dependent Housing Facilities: Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

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

JUNK: Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

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

KENNEL: Any lot or premises on which three (3) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, grooming or as pets; and may offer provisions for minor medical treatment including animal shelters.

LABORATORY: A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

LAKE: Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland Lake and Stream Act of 1972, P.A. 1972, No. 451, as amended.

LAND DIVISION: The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors,

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or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

LANDFILL: Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

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

- A. **Berm:** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this Ordinance.
- B. **Greenway:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance.
- C. **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- D. **Hedge:** A row of closely planted shrubs or low-growing trees which form a continuous visual screen, boundary, or fence.
- E. **Screen or screening:** A wall, wood fence, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.
- F. **Shrub:** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.
- G. **Sod:** A piece from the surface of grassland containing the grass support soil, and the healthy roots, extracted with the intention of replanting in another area for the purpose of establishing lawn areas. Sod is grown on

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mineral soil (commonly referred to as "topsoil") or peat, and must be a minimum of two (2) years old. The grasses permitted for use in sod for landscaped lawns should be a blend that reflects the current standards in the industry and has been demonstrated to prosper under local conditions.

- H. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central stem which normally grows to a mature height of fifteen (15) feet or more in Branch County, Michigan.
1. **Deciduous Tree:** A variety of tree that has foliage that is shed at the end of the growing season.
 2. **Evergreen Tree:** A variety of tree that has foliage that persists and remains green throughout the year.
- I. **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.
- J. **Shade Tree:** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of fifteen (15) feet or greater and has a trunk with at least five (5) feet of clear stem at maturity.

LIVESTOCK: Horses, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm.

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

LOCAL STREET: See STREET, LOCAL OR MINOR.

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

- A. A single Lot of Record.
- B. A portion of a Lot of Record.
- C. A combination of complete Lots of Record, or portion thereof.
- D. A piece of land described by metes and bounds.

LOT, ADJACENT: Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

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

LOT AREA, GROSS: The net lot area plus one-half ($\frac{1}{2}$) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

LOT, CONTIGUOUS: Lots adjoining each other.

LOT, CORNER: A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

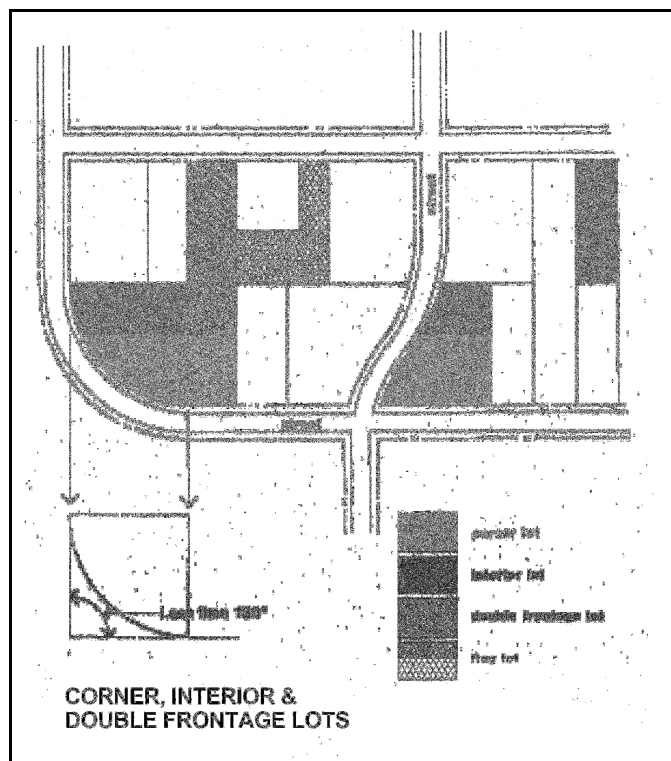
LOT COVERAGE: The part or percent of the lot that is occupied by buildings or structures.

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

LOT, DOUBLE FRONTAGE: A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

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

LOT, LAKE: A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.



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LOT LINES: The lines bounding a lot as follows:

- A. **Front Lot Line:** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. **Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.
- C. **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD: A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Branch County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Branch County Register of Deeds.

LOT WIDTH: The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.

LOT SPLIT AND CONSOLIDATION: The dividing or uniting of lots in accordance with the procedures established by the office of the Branch County Register of Deeds and/or the Township Treasurer. The division of lots shall take place in accordance with the Land Division Act, Michigan Public Act 288 of 1967, as amended and the Butler Township Land Division Ordinance.

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

MAJOR STREET OR THOROUGHFARE: See STREET, MAJOR.

MANUFACTURED HOUSING: See DWELLING, MANUFACTURED.

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

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MASSAGE THERAPIST (Certified): An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.

MASTER PLAN: The plan prepared for by the Planning Commission in accordance with Michigan Public Act 33 of 2008, as amended, relative to the agreed upon desirable physical land use pattern for future Township development. The Plan consists of a series of maps, plans, charts, zoning plan, and written material, representing in summary form, the soundest planning direction to the Township as to how it should grow in order to realize the very best community living environment in the Township.

MEZZANINE: An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

MICROBREWERY: A brewer licensed by the State of Michigan which produces and manufactures in total, less than thirty-thousand (30,000) barrels of beer per year, and who may sell at the licensed brewery premises the beer produced and manufactured to consumers for consumption on or off the licensed brewery premises. In determining the thirty-thousand (30,000) barrel threshold, all brands and labels of a brewer whether brewed in this state or outside this state, shall be combined and all facilities for the production and manufacture of beer that are owned or controlled by the person(s) shall be treated as a single facility.

MINOR STREET: See STREET, LOCAL OR MINOR.

MOBILE HOME: See DWELLING, MOBILE HOME.

MOBILE HOME PARK (MANUFACTURED HOUSING DEVELOPMENT): A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

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

MOTEL: A series of attached, semi-detached, or detached rental units which may or may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty percent (50%) plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of

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furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

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

MUNICIPALITY: The word "municipality" shall mean the Township of Butler, Branch County, Michigan.

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

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

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

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

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

NUISANCE: Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, endanger life and health, or the generation of an excessive or concentrated movement of people or things such as : (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, or (o) invasion of non-abutting street frontage by traffic

NURSERY, DAY NURSERY, or NURSERY SCHOOL: See CHILD CARE CENTER.

NURSERY, PLANT MATERIAL: A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are

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propagated, stored, and/or offered for sale on the premises. Also see OPEN AIR BUSINESS and ROADSIDE STAND.

NURSING HOME, CONVALESCENT HOME, or REST HOME: A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

OCCUPANCY, CHANGE OF: The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

OCCUPANCY LOAD: The number of individuals normally occupying a building or part thereof or for which the exit way facilities have been designed.

OCCUPIED: Used in any way at the time in question.

OFF-STREET PARKING SPACE: See PARKING SPACE and PARKING LOT, OFF-STREET.

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

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

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

OPEN SPACE: Lands open from ground to sky and devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but is not limited to, playground fixtures, shelter, and tennis courts.

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OPEN SPACE, COMMON An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners or property owners association.

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

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

OUTLOT: A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

PARCEL: See LOT.

PARKING LOT, OFF-STREET: An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

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

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

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

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

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

PLANNED UNIT DEVELOPMENT: A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to

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provide design and regulatory flexibility, so as to accomplish the objectives of this Ordinance using innovative and effective planning approaches.

PLANNING COMMISSION: The Butler Township Planning Commission created pursuant to the provisions of Michigan Public Act 12 of 2008.

PLAT: A map of a subdivision of land.

POULTRY: Any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

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

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

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

PRINCIPAL USE: See USE, PRINCIPAL.

PRIVATE STREET OR ROAD: See STREET.

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

PUBLIC NOTICE: A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

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

REAR LOT LINE: See LOT LINE, REAR.

RECREATION ESTABLISHMENT, INDOOR: A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other

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customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

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

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

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

1. Travel Trailer: A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
2. Pickup Camper: A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
3. Motor Home (Trailer Coach): a self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contain sanitary, water, and electrical facilities.
4. Folding Tent Trailer: A folding structure, mounted on wheels and designed for travel and vacation use.
5. Boats and Boat Trailers: Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.

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6. Other Recreational Equipment: Snowmobiles, all terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

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

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

- A. **Restaurant, Carry-Out:** A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- B. **Restaurant, Drive-In:** A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. **Restaurant, Drive-Through:** A drive-through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. **Restaurant, Fast-Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:
 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or

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2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

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

RIGHT-OF-WAY: A right-of-way as defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

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

ROOM: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

ROOMING HOUSE: See BOARDING HOUSE.

RUBBISH: The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, etc.

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

SAWMILL (Agricultural)- A facility for the primary processing of forest products in an agricultural zoning district, provided that such facility is found to not seriously interfere with accepted farming practices, where product is milled or planed in a bulk manner for private or small scale commercial purposes either outdoors or in an enclosed building and where it

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is found to be compatible within close proximity to agricultural and rural residential land uses.

SAWMILL (Industrial)- A facility for the primary processing of forest products grown off-site and milled or planed in a bulk manner for commercial purposes; in a facility located in an industrial zoning district; where more than three persons are employed; where the processing takes place in an enclosed building, and where the finished product is shipped for retail or wholesale trade.

SCHOOL, CHARTER (Public School Academy): A public school and a school district, subject to the leadership and general supervision of the state board over all public education. A charter school or public school academy is authorized by the executive action of authorizing board which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.

SCHOOL, HOME: A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

SCHOOL, NONPUBLIC: A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

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

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

SETBACK: The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The MINIMUM REQUIRED SETBACK is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of YARD).

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SETBACK, PARKING LOT: The minimum horizontal distance between the street right of way or property line and the near edge of the parking lot, excluding necessary and/or approved driveways, frontage roads, and landscaping areas.

SIDE LOT LINE: See LOT LINE, SIDE.

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

SIGN: Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located. Various types of signs and sign-related terms are defined in Chapter 11 of this Ordinance.

SITE PLAN: A plan showing all salient features of a proposed development, as required in Chapter 12, so that it may be evaluated to determine whether it meets the provisions of this Ordinance.

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

SPECIAL LAND USE: Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district or districts. After due consideration of the impact on each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land uses may be permitted following review and recommendation by the Planning Commission and approval or conditional approval by the Township Board, subject to the terms of this Ordinance.

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

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

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STATE LICENSED RESIDENTIAL FACILITY: Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

- A. **Adult Foster Care Facility:** A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1974, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Consumer & Industry Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. The following four (4) types of Adult Foster Care Homes are provided for by these rules:
1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
 2. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
 3. **Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
 4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
- B. **Foster Family Home:** A private residence that houses four (4) or fewer foster children, up to age 19, under constant child care and supervision. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Consumer and Industry Services.

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- C. **Foster Family Group Home:** A private residence that houses five (5) or six (6) foster children, up to age 19, under constant care and supervision. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Consumer and Industry Services.

STATE EQUALIZED VALUATION: The value shown on the Township assessment roll as equalized through the process of State and County equalization.

STORAGE: The depositing of material, products for sale or use, vehicles, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

STORY: That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least 50 percent of the usable floor area of the floor immediately below it.

A mezzanine shall be deemed a full story when it covers more than 50 percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling. See illustration Basic Structural Terms on next page.

STORY, HALF: The uppermost story lying under a pitched roof, the usable floor area of which does not exceed of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven (7) feet, six (6) inches.

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

- A. **Collector Street:** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.

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- C. **Local or Minor Street:** A street whose sole function is to provide access to abutting properties.
- D. **Major Street:** A street that carries high volumes of traffic and serves as a main avenue through or around the Township. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this Ordinance, major streets shall include those streets designated as "county primary "," county local "or" Major Street
- E. **Private Street or Road:** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Township, County, State or Federal Government.
- F. **Public Street or Road:** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the Township, County, State or Federal Government.

STREET LINE: A dividing line between the street and a lot, also known as the right-of-way line.

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

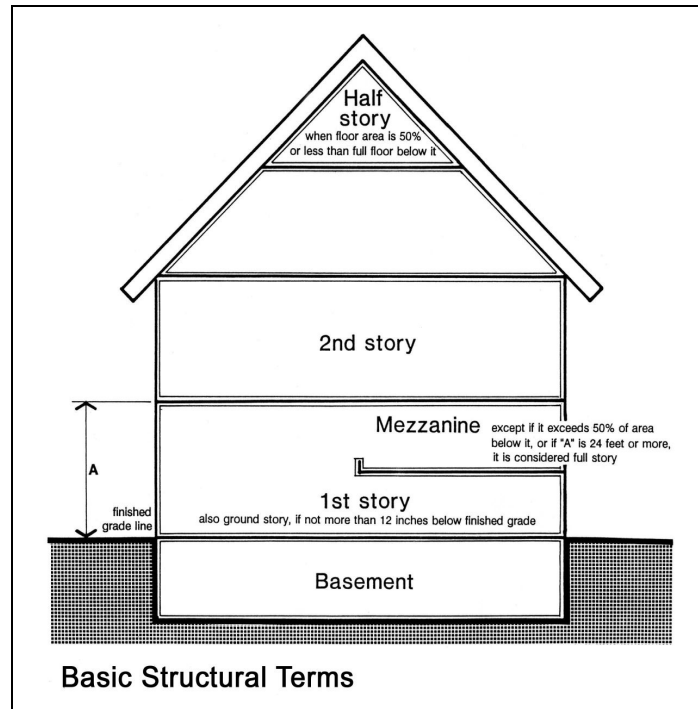
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STRUCTURE, ACCESSORY: See ACCESSORY USE, BUILDING, OR STRUCTURE.

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

STRUCTURE, OUTDOOR ADVERTISING: Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

SUBDIVISION PLAT: The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, and the Butler Township Subdivision Regulations.



SWIMMING POOL: Shall mean any permanent, non-portable structure or container located below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

TELECOMMUNICATIONS TOWERS AND FACILITIES OR TOWER: All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities, short wave receiving facilities, radio and television broadcast reception facilities, satellite dishes, federally licensed amateur (HAM) radio facilities, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

TEMPORARY USE OR BUILDING: See BUILDING, TEMPORARY or USE, TEMPORARY.

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THEATER: An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building. Also see DRIVE-IN THEATER.

TOWNHOUSE: See DWELLING UNIT, SINGLE FAMILY ATTACHED or TOWNHOUSE.

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

- A. an increase in mortality, or
- B. an increase in serious irreversible illness, or
- C. serious incapacitating, but reversible illness, or
- D. substantial present or potential hazard to human health or the environment.

TRAILER: See RECREATIONAL VEHICLE; DWELLING, MOBILE HOME; and UTILITY TRAILER.

TRANSITION: The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

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

TRUCK TERMINAL: a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution.

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

USE, ACCESSORY: See ACCESSORY USE, BUILDING, OR STRUCTURE.

USE, CONDITIONAL: See CONDITIONAL USE.

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

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USE, PRINCIPAL: The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

USE, SPECIAL LAND: See SPECIAL LAND USE.

USE, TEMPORARY: Shall mean a use permitted to exist during a specified period of time under conditions and procedures as provided in this Ordinance.

UTILITY ROOM: A utility room is a room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

UTILITY TRAILER: A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

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

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case.

A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance.

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

1. Semi-trailer: A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures, any of which above units exceed twelve (12) feet in height.
2. Truck Tractor: A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and

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similar units, and which is not customarily operated without an attached trailer.

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

VETERINARY HOSPITAL: See CLINIC, VETERINARY.

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

WALL, PARAPET: An extension of a building wall above the roof which may serve to screen roof mounted mechanical equipment.

WALL, RETAINING: A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

WAREHOUSE: A building used for short and/or long term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing. See also DISTRIBUTION CENTER

WAREHOUSE, MINIATURE OR SELF-STORAGE: A building or group of buildings in a controlled access and /or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

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

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

WETLAND, REGULATED: Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

1. Contiguous to an inland lake or pond, or a river, or a stream;
2. Not contiguous to an inland lake, pond, river, or stream, and more than five (5) acres in size, or
3. Not contiguous to an inland lake, pond, river, or stream and five (5) acres or less in size if the Michigan Department of Natural Resources determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner

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

WIRELESS COMMUNICATION FACILITIES: All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including but not limited to radio and television towers, cellular telephone and paging towers, 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 antenna, satellite dishes, and government facilities which are subject to state and federal law. Wireless communication facilities shall be specifically excluded from the definition of “public facility” or “essential service.”

WIRELESS COMMUNICATION SUPPORT STRUCTURES (TOWERS): Any structure used to support attached wireless communication facilities, or other antenna or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, lattice towers, light poles, wood poles, and guyed towers or other similar structures which support wireless communication facilities..

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YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance. See Illustration “Yard Requirements” on the next page.

- A. **Yard, Front:** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear:** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C. **Yard, Side:** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

YARD SALE: For the purpose of this ordinance, a yard sale is considered to be an accumulation of personal property being offered for sale and displayed in a yard, garage, barn or porch of a residential premise.

ZONING BOARD OF APPEALS (ZBA): The Butler Township Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 12 of 2008, as amended.

ZONING PERMIT: The written authority issued by the Zoning Administrator permitting the construction, removal, moving, alteration, or use of a building in conformity with this Ordinance.

ZONING OFFICIAL: Official assisting Township Board, Township Supervisor, Planning Commission and Zoning Board of Appeals in administering the regulations of this Ordinance.

CHAPTER 4

AG PRIMARY AGRICULTURAL DISTRICT

SECTION 4.01 DESCRIPTION AND PURPOSE

This zoning district is intended to accommodate land currently under cultivation, wetlands, woodlands, and other lands in an undisturbed state. Farming, crop cultivation, dairy and livestock operations, and limited rural estate single family dwellings are suitable uses in this district. Parcels within the AG District are restricted to a minimum of 5 acres in size. However, if a current dwelling exists on the parcel, the minimum lot size is one acre. Wetlands, woodlots, and other sensitive natural features should be protected through additional use of open space planning, overlay districts, and the purchase of development rights.

SECTION 4.02 PERMITTED USE REGULATIONS

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

- A. Farms for both general and specialized farming, together with farm dwellings, buildings and other installations necessary to such farms including temporary housing and its sanitary facilities, provided that such activities are in conformance with all requirements of the Branch-Hillsdale District Health Department, the State of Michigan Right to Farm Act, MDEQ and/or any other federal, state and/or local regulating agency having jurisdiction, and, further, in conformance with the provisions of Section 4.03 below.
- B. Greenhouses, nurseries, orchards, vineyards, and apiaries.
- C. Riding stables, where horses are boarded and/or rented.
- D. Single family detached dwellings.
- E. Adult foster care family homes of six (6) or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- F. Public schools.
- G. Accessory structures and uses customarily incidental to the above permitted uses.
- H. Day Care Centers.

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I. Veterinarian Clinic

SECTION 4.03 USES PERMITTED BY SPECIAL USE PERMIT

The following uses may be permitted by the Township Board, subject to the conditions specified for each use in Chapter 19; review and approval of the Planning Commission, the imposition of special conditions which, in the opinion of the Planning Commission or Township Board, are necessary to fulfill the purposes of this Ordinance; and the procedures set forth in Chapter 19 of this Ordinance:

- A. Home occupations as regulated by Section 16.16 of this Ordinance.
- B. Removal and processing of topsoil, sand, gravel or other such minerals as regulated by Section 16.09 of this Ordinance.
- C. Commercial kennels and animal boarding establishments as regulated in Section 16.12 of this Ordinance.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- E. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, (not including service or storage yards) when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communication facilities as set forth in Section 14.06 of this Ordinance.
- F. Cemeteries.
- G. Essential Services.
- H. Publicly owned and operated parks, parkways, and recreational facilities.
- I. Planned unit developments in accordance with Section 10.01 of this Ordinance.
- J. Gun and archery ranges.
- K. Churches, synagogues and other religious facilities and buildings customarily incidental thereto.
- L. Animal uses, subject to the following regulations:

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1. All new and expanding animal uses involving more than 500 animal unit equivalents, as defined by the Michigan Department of Agriculture (see table below), are subject to site plan approval and must comply with Generally Accepted Agricultural and Management Practices (GAAMPs) for site selection and odor control for new and expanding livestock production facilities as adopted by the Michigan Department of Agriculture. All potential sites for new and expanding livestock facilities must follow the MDA site selection review and verification process and must submit a letter of conformance with the GAAMP for site selection and odor control for new and expanding livestock production facilities from MDA prior to site plan approval.

Animal Units	50	250	500	750	1,000
Animal Type	Number of Animals				
Slaughter & Feeder Cattle	50	250	500	750	1,000
Mature Dairy Cattle	35	175	350	525	700
Swine (over 55 pounds)	125	625	1,250	1,875	2,500
Sheep & Lambs	500	2,500	5,000	7,500	10,000
Horses	25	125	250	375	500
Turkeys	2,750	13,750	27,500	41,250	55,000
Laying Hens or Broilers	5,000	25,000	50,000	75,000	100,000

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

2. Disposal or slaughtering of animals is prohibited except where the animals have been raised on the premises for consumption by residents of the premises. Manure shall be stored in a manner that minimizes odor and run-off. Consideration should be given to partial paving of confinement areas, storage ponds, and other accepted agricultural practices (GAAMPs) regarding runoff control. When manure from confinement manure storage pits or holding areas is removed it shall be incorporated, knifed in, or disposed of in a reasonable manner following GAAMPs and taking into consideration seasonal conditions and wind direction impacts on Township residents. Sufficient area to permit proper incorporation or disposal of manure shall be provided. Manure shall not be applied and left on the soil surface in any area that is within 150 feet of surface water.

SECTION 4.04 DEVELOPMENT STANDARDS

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

- A. **FRONT YARD.** There shall be a front yard of not less than 75 feet.

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- B. **SIDE YARD.** For residential buildings and structures, there shall be total side yards of not less than 50 feet; provided, however, that no side yard shall be less than 20 feet. For all other buildings, there shall be two (2) side yards of not less than 50 feet each.
- C. **REAR YARD.** There shall be a rear yard of not less than 50 feet.
- D. **LOT AREA.** The minimum lot area in this District, unless specified elsewhere, shall be 5 acres, however, if a current dwelling exists on the parcel, the minimum lot size is one acre. Lot area cannot include any part of a public right-of-way or private road right-of-way.
- E. **LOT WIDTH.** The minimum lot width in this District, unless specified elsewhere, shall be 330 feet, however, if a current dwelling exists on the parcel, the minimum lot width shall be 175 feet. The lot width shall be measured at the front building line.
- F. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the applicable minimum lot width.
- G. **MINIMUM FLOOR AREA.** Each dwelling unit, unless specified elsewhere, shall have a minimum of 864 square feet of useable floor area on the main floor.
- H. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses.

CHAPTER 5

R-1 GENERAL AGRICULTURAL & RURAL RESIDENTIAL DISTRICT

SECTION 5.01 DESCRIPTION AND PURPOSES

This district is intended for smaller scale general agricultural operations and single family dwellings on large parcels interspersed within tracts of agricultural uses and undeveloped open space for the purpose of maintaining rural atmosphere, preserving open space and very low population density. Utilities are not encouraged for extension, with the exception of natural gas, in this area and all homes must utilize on site well and sanitary septic systems as permitted by the Branch-Hillsdale District Health Department. Planned Unit Development and Open Space Preservation design is the preferred method of residential development and is strongly encouraged. It is the intent of the Township to encourage and institute creative design alternatives in the development of residential construction.

SECTION 5.02 PERMITTED USE REGULATIONS

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

- A. Farms for both general and specialized farming, together with farm dwellings and buildings and other installations necessary to such farms. Temporary housing for migratory workers is prohibited.
- B. Roadside stands for the sale of produce grown on the property by the resident owners.
- C. Greenhouses, nurseries, orchards, vineyards, or farms.
- D. Single family detached dwellings.
- E. Adult foster care family homes of six (6) or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- F. Accessory structures and uses customarily incidental to the above permitted uses.
- G. Day care centers.
- H. Veterinarian Clinic

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SECTION 5.03 USES PERMITTED BY SPECIAL USE PERMIT

The following uses may be permitted by the Township Board, subject to the conditions specified for each use in Chapter 19; review and approval of the Planning Commission, the imposition of special conditions which, in the opinion of the Planning Commission or Township Board, are necessary to fulfill the purposes of this Ordinance; and the procedures set forth in Chapter 19 of this Ordinance:

- A. Home occupations as regulated by Chapter 16.16 of this Ordinance.
- B. Removal and processing of topsoil, sand, gravel or other such minerals as regulated by Chapter 16.09 of this Ordinance.
- C. Commercial kennels and animal boarding establishments as regulated in Chapter 16.12 of this Ordinance.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- E. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communication facilities as set forth in Section 14.06 of this Ordinance.
- F. Cemeteries
- G. Riding stables, where horses are boarded and/or rented.
- H. Planned Unit Developments
- I. Essential Services
- J. Publicly owned and operated parks, parkways, and recreational facilities.
- K. Churches, synagogues and other religious facilities and buildings customarily incidental thereto.

SECTION 5.04 DEVELOPMENT STANDARDS

No building or structure nor any enlargement thereof shall be hereafter erected except in

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conformance with the following yard, lot area, height and building coverage requirements:

- A. **FRONT YARD.** There shall be a front yard of not less than fifty (50) feet.
- B. **SIDE YARD.** For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20) feet.
- C. **REAR YARD.** There shall be a rear yard of not less than fifty (50) feet.
- D. **LOT AREA.** The minimum lot area in this District shall be two (2) acres for all agricultural and rural (single family) residential land uses. The lot area shall not exceed a 1 to 4 width to depth ratio.
- E. **LOT WIDTH.** The minimum lot width in this District, unless specified elsewhere, shall be two hundred (200) feet.
- F. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the applicable minimum lot width.
- G. **MINIMUM FLOOR AREA.** Each dwelling unit, unless specified elsewhere, shall have a minimum of eight hundred sixty-four (864) square feet of usable floor area on the main floor.
- H. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses.
- I. **PLANNED DEVELOPMENT.** Subdivision Open Space Developments are permitted and encouraged in the R-1 General Agriculture and Rural Residential District, subject to the standards and approval provisions as set forth in Chapter 10 of this Ordinance.

CHAPTER 6

R-2 LOW DENSITY RESIDENTIAL DISTRICT

SECTION 6.01 DESCRIPTION AND PURPOSE

This district is intended for low density single family residential dwellings on large parcels. These areas will be convenient to major transportation networks (County roads). Single family parcels will have a minimum lot area of one (1) acre per dwelling. In addition to single family residential uses, desirable recreational, religious and educational facilities are also permitted.

SECTION 6.02 PERMITTED USES

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

- A. Single family detached dwellings.
- B. Publicly owned and operated parks, parkways, and recreational facilities
- C. State licensed residential facilities providing residential services for six (6) or fewer individuals under 24-hour supervision or care, but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional facilities.
- D. Family day care homes.
- E. Accessory structures and uses customarily incidental to the above permitted uses.
- F. Private and public schools, libraries, museums, art galleries and similar uses.
- G. Parks, playgrounds and community centers.
- H. Day Care Centers

SECTION 6.03 USES PERMITTED BY SPECIAL USE PERMIT

The following uses may be permitted by the Township Board, subject to the conditions specified for each use in Chapter 19; review and approval of the Planning Commission, the imposition of special conditions which, in the opinion of the Planning Commission or

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Township Board, are necessary to fulfill the purposes of this Ordinance; and the procedures set forth in Chapter 19 of this Ordinance:

- A. Home occupations as regulated by Chapter 16.16 of this Ordinance.
- B. Municipal, county, regional and state owned buildings including libraries, art galleries, museums, offices and service facilities (not including outdoor storage yards) when in character with the surrounding residential area.
- C. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- D. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communication facilities as set forth in Section 14.06 of this Ordinance.
- E. Cemeteries
- F. Planned Unit Developments
- G. Essential Services
- H. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto.
- I. Group day care homes, as defined and regulated by Public Act No.116 of the Public Acts of 1973, as amended, subject to the following provisions:
 - 1. The group day care home shall not be located closer than 1,500 feet to any of the following:
 - a. Another licensed group day care home.
 - b. Another adult foster care small group home or large group home licensed under the Adult Foster Care Licensing Act.
 - c. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Public Health Code.

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- d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
2. Appropriate fencing shall be provided for the safety of the children in the group day care home, as determined by Butler Township.
3. The property shall be maintained consistent with the visible characteristics of the neighborhood.
4. A group day care home shall not exceed sixteen (16) hours of operation during a twenty-four (24) hour period.
5. Off-street parking shall be provided for employees and shall meet the requirements of Chapter 15 of this Ordinance.
6. A State licensed or registered facility or group day care home that operated before March 30, 1989 is not required to comply with the above requirements.

SECTION 6.04 DEVELOPMENT STANDARDS

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

- A. **FRONT YARD.** There shall be a front yard of not less than fifty (50) feet.
- B. **SIDE YARD.** There shall be total side yards of not less than twenty (20) feet; provided, however, that no yard shall be less than ten (10) feet.
- C. **REAR YARD.** There shall be a rear yard of not less than twenty-five (25) feet.
- D. **LOT AREA.** The minimum lot area in this District, unless specified elsewhere, shall be one (1) acres for single family dwellings. This requirement may be reduced through the use of the Planned Unit Development provisions of this Ordinance. Permitted nonresidential uses shall be required to have a minimum of five (5) acres.
- E. **LOT WIDTH.** The minimum lot width in this District, unless reduced as a result of a PUD proposal, shall be one hundred and fifty feet (150).
- F. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the minimum applicable lot width.

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- G. **MINIMUM FLOOR AREA.** Each dwelling unit shall have a minimum usable floor area eight hundred sixty-four (864) square feet on the main floor.
- H. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses except detached single family residential uses on individual parcels in accordance with Chapter 12.
- I. **PLANNED UNIT DEVELOPMENT.** Subdivision Open Space Developments (PUD's) are permitted and encouraged in the R-2 District, subject to the standards and approval provisions as set forth in Chapter 10 of this Ordinance.

CHAPTER 7

R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE

This district is intended for a mixture of housing types including single and two family dwellings, multiple family structures, senior housing facilities, apartments, manufactured housing developments (mobile home parks, and trailer parks) and similar housing alternatives. Maximum density for the R-3 District shall not exceed eight (8) units per acre. Common water and sewer facilities or adequate private utility systems shall be provided to all developments.

SECTION 7.02 PERMITTED USES

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

- A. Single and two family dwellings.
- B. State licensed residential facilities providing residential services for six (6) or fewer individuals under 24-hour supervision or care, but not including adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional facilities.
- C. Family day care homes.
- D. Day Care Centers

SECTION 7.03 USES PERMITTED BY SPECIAL USE PERMIT

The following uses may be permitted by the Township Board, subject to the conditions specified for each use in Chapter 19; review and approval of the Planning Commission, the imposition of special conditions which, in the opinion of the Planning Commission or Township Board, are necessary to fulfill the purposes of this Ordinance; and the procedures set forth in Chapter 19 of this Ordinance:

- A. Home occupations as regulated by Section 16.16 of this Ordinance.
- B. Municipal, county, regional and state owned buildings including libraries, art galleries, museums, offices and service facilities (not including outdoor storage yards) when in character with the surrounding residential area.

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- C. Multiple family dwellings, including but not limited to, apartments, low-rise garden apartment houses, townhouses, terraces, efficiency units, and row houses.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- E. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall not include wireless communications facilities as set forth in Section 14.06 of this Ordinance.
- F. Planned Unit Developments
- G. Essential Services
- H. Accessory structures and uses customarily incidental to the above permitted uses, including but not limited to:
 - 1. Community garages, serving the principal residential building, containing space for no more than two (2) passenger vehicles for each dwelling unit in the principal building on the lot.
 - 2. Maintenance and management buildings to serve the multiple dwellings.
 - 3. Private swimming pool, clubhouse, or other recreational facility designed and operated only for the occupants of the principal building and their personal guests.
- I. Nursing homes, senior citizen housing, retirement residences, senior apartment facilities and similar group housing.
- J. Private and public schools (including charter schools), libraries, museums, art galleries and similar uses.
- K. Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by a governmental agency or a not for profit organization.
- L. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto.
- M. Manufactured Home Parks.

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- N. State Licensed Residential Facilities providing residential services for more than six (6) individuals.
- O. Group day care homes, as defined and regulated by Public Act No.116 of the Public Acts of 1973, as amended. subject to the following provisions:
 - 1. The group day care home shall not be located closer than 1,500 feet to any of the following:
 - a. Another licensed group day care home.
 - b. Another adult foster care small group home or large group home licensed under the Adult Foster Care Licensing Act.
 - c. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Public Health Code.
 - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
 - 2. Appropriate fencing shall be provided for the safety of the children in the group day care home, as determined by Butler Township.
 - 3. The property shall be maintained consistent with the visible characteristics of the neighborhood.
 - 4. A group day care home shall not exceed sixteen (16) hours of operation during a twenty-four (24) hour period.
 - 5. Off-street parking shall be provided for employees and shall meet the requirements of Chapter 15 of this Ordinance.
 - 6. A State licensed or registered facility or group day care home that operated before March 30, 1989 is not required to comply with the above requirements.

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SECTION 7.04 DEVELOPMENT STANDARDS

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

- A. **FRONT YARD.** There shall be a front yard of not less than twenty five (25) feet.
- B. **SIDE YARD.** There shall be total side yards as follows:
 - 1. For single and two family dwellings, the total side yards shall be not less than twenty (20) feet; provided, however, that no side yard shall be less than seven (7) feet.
 - 2. For multi-family dwellings and all other permitted uses, each side yard shall be not less than twenty-five (25) feet, except that when a principal structure exceeds twenty-five feet in height, it shall be set back a distance equal to the overall height of the building.
- C. **REAR YARD.** There shall be a rear yard of not less than twenty-five (25) feet. Multiple family structures over the height of twenty-five (25) feet shall have a rear yard equal to the total height of the proposed structure.
- D. **LOT AREA.** The minimum lot area in this District, unless specified elsewhere, shall be:
 - 1. Single family dwellings with common water and sewer - ten thousand (10,000) square feet;
 - 2. Single family dwelling without common water and sewer - twenty-two thousand (22,000) square feet;
 - 3. Two family parcels shall require double the area required ;
 - 4. Multiple family developments must be connected to a common water and sanitary sewer system and shall require five thousand (5,000) square feet per unit.
- E. **LOT WIDTH.** The minimum lot width in this District, unless specified elsewhere, shall be;
 - (a) With common water and sewer eight-five (85) feet;
 - (b) Without common water and sewer one hundred (100) feet;

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- (c) Two family lots at one hundred (100) feet; and
- (d) Multiple Family lot at one hundred twenty-five (125) feet.

1. **MINIMUM FRONTAGE.** The minimum public street or private road frontage, unless specified elsewhere, shall be the same minimum applicable lot width.
2. **MINIMUM FLOOR AREA.** Each single family and two family dwelling shall have the minimal usable floor area as is required in the "R-2" zoning district classification. Each multi family dwelling shall have minimum usable floor area as follows: one bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.
3. **SITE PLAN REVIEW.** Site Plan Review and approval is required for all uses except detached single and two-family residential uses located on individual parcels in accordance with Chapter 12.
4. **PLANNED UNIT DEVELOPMENT.** Subdivision Open Space Developments are permitted and encouraged in the R-3 District, subject to the standards and approval provisions as set forth in Chapter 10 of this Ordinance.
5. **ACCESS MANAGEMENT.** All developments consisting of two or more single or two family dwellings shall utilize shared driveways, private roads or newly dedicated public roads to provide access to their developments in order to limit curb cuts and access to primary County roadways and State highways.

CHAPTER 8

C-1 TOWNSHIP COMMERCIAL DISTRICT

SECTION 8.01 DESCRIPTION AND PURPOSE

The intent of the "C-1" Township Commercial District is to provide for a variety of commercial uses that cater to the convenience and comparison shopping needs of the residents of the entire Township and a limited area of the surrounding region beyond the Township's limits and, therefore, are often located so as to serve passing and destination traffic. Commercial uses shall be located within designated areas along Clarendon Road and Jonesville Road and other sites deemed suitable by the Township Planning Commission. Uses designated as "permitted" uses are considered to be smaller in scale and less obtrusive in nature. Uses designated as "special uses" are considered to be larger scale commercial activities that result in a more intensive land use that should be subject to the Township's review and consideration prior to development or have characteristics which may not make them suitable for all commercial locations within the Township. Commercial facilities should be compatible in design with adjacent commercial development and not pose a nuisance to nearby residential areas.

SECTION 8.02 PERMITTED USES BY RIGHT

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

- A. Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, alcoholic beverages, baked goods or other foods, ice cream, pharmaceuticals, dry goods, notions, hardware, books, stationery and school supplies, music and video sales and rental, flowers, hobby equipment, periodicals, shoes, sporting goods, small household articles, and tobacco products.
- B. Retail or service establishments which offer comparison goods for residents, such as: bicycle sales, jewelry stores, hobby shops, music stores, clothing and shoe stores, notions, bookstores, sporting goods stores, office supply stores, carpet stores, antique stores, furniture stores, household appliance stores, paint and wallpaper stores, auto equipment sales stores, and similar specialty retail stores.
- C. Establishments which perform services within a completely enclosed building for persons residing in nearby residential areas, such as: beauty and barber shops; watch, radio, television, computer, clothing and shoe repair; locksmiths; photo processing outlets.
- D. Office buildings and professional office uses, including medical and dental clinics or offices.

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- E. Offices and showrooms of a plumber, electrician, building contractor, upholsterer, caterer, decorator or similar trade, subject to the following conditions:
 - 1. All services performed on the premises, including fabrication, repair, cleaning or other processing of goods, shall be sold at retail on the premises where produced.
 - 2. There shall be no outside storage of materials or goods on the premises.
- F. Schools for occupations, professional, or technical training, such as dance schools, music and voice schools, art studios, secretarial training, and similar schools.
- G. Funeral homes, provided there is adequate assembly area for vehicles to be used in funeral processions and such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of the funeral home.
- H. Financial institutions, including banks, credit unions, and savings and loan associations. Drive-through facilities are permitted.
- I. Laundry and dry cleaning customer outlets, coin operated laundromats, self-serve dry cleaning establishments, and similar operations.
- J. Private service clubs, fraternal organizations, banquet halls, and meeting halls.
- K. Standard and carry-out restaurants, bars, and lounges.
- L. Dance halls, assembly halls, and similar places of assembly.
- M. Private indoor recreation uses, such as bowling alleys, billiard halls, gymnasium or court sports facilities, tennis clubs, roller or ice skating rinks, personal fitness centers, and similar recreation uses.
- N. Other uses similar to the above.
- O. Uses and structures accessory to the above.
- P. Day Care Centers.

SECTION 8.03 USES PERMITTED BY SPECIAL USE PERMIT APPROVAL

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The following uses may be permitted by the Township Board subject to the conditions specified for each use; review and approval of the Planning Commission, the imposition of special conditions which, in the opinion of the Planning Commission or Township Board, are necessary to fulfill the purposes of this Ordinance; and the procedures set forth in Chapter 19.

- A. Automobile or car wash establishments.
- B. Open-front stores and outdoor sales.
- C. Veterinary offices and hospitals.
- D. Commercial kennels.
- E. Outdoor retail sales of plant material not grown on the site, lawn furniture, playground equipment, and home garden supplies.
- F. Fast-food, drive-in, and drive-through restaurants.
- G. Commercial parking lots.
- H. Automobile gasoline filling and service stations, repair facilities (not including body shops) and oil change or lubrication stations subject to the provisions of Section 14.03.
- I. Municipal, regional, state and federal buildings and uses not requiring outside storage of materials or vehicles.
- J. Essential services
- K. Planned Developments as defined and subject to the provisions of Chapter 10 of this Ordinance.
- L. Any other retail business or service establishment which is determined by the Board of Appeals to be of the same general character as the above permitted uses.
- M. New and used automobile, truck and tractor, boat, mobile home, recreation vehicle and trailer sales.
- N. Hotels, motels, and motel courts.
- O. Outdoor display, sale, and storage of goods and materials of any retail or wholesale establishment.

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- P. Automobile raceways, race tracks, drag strips and related activities and accessory uses.
- Q. Shooting Range and Hunting Preserve
- R. Churches, synagogues, and other religious facilities and buildings customarily incidental thereto.

SECTION 8.04 REQUIRED CONDITIONS

- A. With the exception of automobile parking and off-street parking, all business, service or processing shall be conducted wholly within a completely enclosed building.
- B. All goods produced on the premises shall be sold at retail on the premises where produced.

SECTION 8.05 DEVELOPMENT STANDARDS

- A. **SCREENING.** Side yards and rear yards adjoining any lot in a R or AG Zoning District shall be screened by: (1) a compact hedge of deciduous or evergreen trees which have a minimum of six (6) feet in height and ten (10) feet in width after one growing season; or (2) a solid wall or tight board fence six (6) feet in height.
- B. **SETBACKS, HEIGHT, AND AREA REQUIREMENTS.** See Schedule of Regulations.
- C. **LOT AREA.** The minimum lot area shall be fifteen thousand (15,000) square feet. The minimum lot width shall be one hundred (100) feet which shall be the minimum public street or private road frontage unless specified elsewhere.
- D. **PUBLIC WATER AND SEWER** Commercial and office developments shall be served by public sanitary sewer and public water supply systems where available or private systems approved by the Branch-Hillsdale District Health Department.
- E. **GENERAL DEVELOPMENT STANDARDS** Buildings and uses in the C-1 Commercial Zoning District shall be subject to all applicable standards and requirements set forth in this Ordinance.
- F. **SITE PLAN REVIEW** Site plan review and approval is required for all uses, in accordance with Chapter 12.
- G. **LANDSCAPING.** Landscaping is required for all new or expanded uses and redeveloped sites, in accordance with Chapter 18 of this Ordinance.

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- H. **SIGNAGE.** Signage as defined in Chapter 11 of this Ordinance is regulated and subject to the requirements of this Ordinance.
- I. **PARKING.** Parking is required for all new uses, in accordance with Chapter 15 of this Ordinance.
- J. **ACCESS.** Commercial uses shall have no more than one access drive along any public road right-of-way except in such case where parcels abut two public roads, one access drive may be permitted along each adjoining road frontage. For multiple tenant buildings and commercial developments, shared drives, connected parking lots and parallel access roads shall be utilized. For parcels exceeding two-hundred fifty feet in frontage along a public roadway, the Planning Commission may grant one additional drive approach upon review of a submitted approval and the two drives being located at least one hundred feet apart.

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CHAPTER 9

I-1 RURAL INDUSTRIAL DISTRICT

SECTION 9.01 PURPOSE AND INTENT

The intent of the I-1 Rural Industrial District is to provide guidelines for industrial development, including development within planned industrial park subdivisions and on independent parcels, within the Township. It is intended that permitted activities or operations produce no external impacts that are detrimental in any way to other uses in the district or properties in adjoining districts. Permitted uses should be compatible with surrounding residential or commercial uses.

Accordingly, permitted manufacturing, distribution, warehousing, and light industrial uses permitted in this district should be fully contained within well-designed buildings on amply-landscaped sites, with adequate off-street parking and loading areas, and with proper screening around outside storage areas.

Planned Development may be permitted as a means to achieve the basic intent of this district in accordance with the guidelines of Chapter 10. Only those areas designated for industrial use or planned for industrial activity within the Township should be developed under this section. However, it is the policy of the Township to encourage the expansion of existing industrial areas in adjacent communities rather than new industrial development locating in Butler Township.

SECTION 9.02 PERMITTED PRINCIPAL USES

In I-1 District, no uses shall be permitted except the following:

- A. Any use charged with the principal function of basic research, design, and pilot or experimental project development when conducted within a completely enclosed building. The growing of any vegetation requisite to the conducting of basic research shall be excluded from the requirement of enclosure.
- B. Warehousing and wholesale establishments when conducted within a entirely enclosed building. No outdoor storage (including pallets and packaging materials) shall be permitted.
- C. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge, and machining shops provided that no metal stamping machines are employed.
- D. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as, but not limited to: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semi-precious metals

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or stone, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns but not including the bailing of discards, old iron or other metal, wood, lumber, glass, paper, rags or other similar material.

- E. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- F. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
- G. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios, phonographs and television.
- H. Laboratories: experimental, film, or testing.
- I. Manufacturing and repair of electric signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- J. Central dry cleaning plants or laundries.
- K. Automotive repair garages, auto engine and body repair, and undercoating shops when all operations take place within a completely enclosed building.
- L. Mini-warehouses and self-storage facilities.
- M. Uses which are similar to the above uses.
- N. Signs in accordance with Chapter 11 of this Ordinance.
- O. Accessory off-street parking and buildings and uses customarily incidental to the above permitted uses.
- P. Essential service buildings (without storage yards) when operating requirements necessitate the location of said buildings within the district in order to serve the immediate vicinity.
- Q. Day Care Centers.

SECTION 9.03 USES PERMITTED AFTER SPECIAL APPROVAL

The following uses may be permitted by the Township subject to the conditions specified for each use; review and approval of the Planning Commission, the imposition of special conditions which, in the opinion of the Planning Commission or Township Board, are necessary to fulfill the purposes of this Ordinance; and the procedures set forth in Chapter 19.

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- A. Retail uses which have an industrial character in terms of either their activities or outdoor storage requirements such as, but not limited to: lumber yards, building materials outlets, upholsterers, and cabinet makers, and agricultural or construction equipment sales, rental, or repair.
- B. Restaurants, financial institutions and vocational training centers for the servicing of employees of the industrial facilities within the localized area.
- C. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the "I-1" District.
- D. Metal plating, buffing, stamping and polishing.
- E. Junk yards.
- F. Storage facilities for building materials, sand, gravel, stone, lumber and outdoor storage of contractor's equipment and supplies.
- G. Other uses which are of a similar character to the above uses.
- H. Adult oriented uses as regulated by Section 14.02 of this Ordinance.

SECTION 9.04 DEVELOPMENT STANDARDS

- A. **Required Conditions.** Except as otherwise noted for specific uses, buildings and uses in the I-1 Industrial District shall comply with the following required conditions:
 - 1. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall comply with the performance standards set forth in this ordinance.
 - 2. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall be conducted within a completely enclosed building, except as otherwise specified.
 - 3. All machinery shall comply with the standards set forth in this ordinance.
 - 4. No building shall be located nearer than two hundred (200) feet to the boundaries of any residential or agricultural district classification.
 - 5. Adequate off-street parking shall be located and maintained on the premises on which the industrial use is located.
 - 6. All land of any individual site in use in this district, not occupied by buildings, structures, improved parking areas, or storage areas, shall be maintained in a neat and attractive manner.
 - 7. Outdoor storage areas shall be limited to a cumulative area not to exceed twenty (20%) percent of the square foot area of the principal building located upon the premises and must be screened from adjoining premises and from public streets by a solid fence, wall, or natural screening for

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this purpose. No material shall be stored above the height of the screening. Storage areas shall conform to the setback requirements for buildings in the I-1 District. Proper access to all parts of the storage areas shall be provided for fire and emergency services.

8. No use shall be allowed which will emanate noise, smoke, odor, dust, dirt, noxious gases, glare, heat, vibration, or psychological ill effects to such an extent as will be a nuisance or annoyance to owners or occupants of surrounding premises.

B. SITE PLAN REVIEW. Site plan review and approval is required for all uses in the Industrial District in accordance with Chapter 12 of this Ordinance.

C. AREA, HEIGHT, BUILD AND PLACEMENT REQUIREMENTS.

Height	40 feet
Front Yard Setback	50 feet
Side Yard Setback	50 feet
Rear Yard Setback	50 feet
Maximum Lot Coverage	40%

D. GENERAL DEVELOPMENT STANDARDS. Buildings and uses in the I-1 Rural Industrial District shall be subject to all applicable standards and requirements set forth in this Ordinance including signage, landscaping and parking requirements.

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CHAPTER 10

PLANNED UNIT DEVELOPMENT

SECTION 10.01 PURPOSE AND INTENT

To permit, through the special use permit procedure, planned unit developments designed to encourage creativity and flexibility in the use and design of structures and land in Butler Township.

The Planned Unit Development (PUD) is intended to accomplish the following:

- A. Result in a more efficient pattern of development, with shorter streets and utility networks.
- B. Preserve existing natural assets, such as stands of trees, flood plains, lake frontage, scenic vistas and other open spaces.
- C. Accomplish a more desirable residential environmental plan than would be possible through the strict application of the minimum requirements of the zoning ordinance.
- D. Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all units.
- E. Provide for supportive mix of land uses and amenities such as day care, office, neighborhood retail, and similar uses, which in the opinion of the Planning Commission, are in conformance with the goals and objectives of the master plan and will enhance the residential stability and economic base of Butler Township through the application of a special use permit.

SECTION 10.02 GENERAL REQUIREMENTS:

- A. Minimum Project Area:

<u>Zoning District</u>	<u>Acreage</u>
A-1 General AG	5
R-1 Rural Residential	2
R-2 Low Density Residential	1
R-3 Medium Density Residential	Subject to conditions and approval of Township Board

- B. The development must have direct access to a publicly maintained road.

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- C. The principal permitted use shall be residential development, consistent with the zoning district of the proposed “PUD”.
- D. Non-residential land uses may be integrated into the proposed “PUD” through approval of the special use permit. Commercial uses may be limited to the development of not more than ten percent (10%) of the total project area. Examples of commercial uses may include retail stores, personal service establishments, bed and breakfast establishments, business or professional offices, golf courses with restaurants and retail components, and day care facilities. However, all proposed commercial uses must meet the intent of the “PUD” Chapter and be subject to reasonable terms established as part of the special use permit process.
- E. Each principal building in the proposed “PUD” must be connected to water and sewer facilities that are approved by the Branch County Health Department.
- F. Each site shall be provided with adequate storm drainage. Open drainage courses and storm retention ponds shall be reviewed and may be permitted by the County Drain Commissioner.
- G. All utilities including telephone, electric, and cable, within the “PUD”, shall be located underground.
- H. Common Open Space
 - 1. Common open space shall not include proposed street right-of-ways, open parking area or commercial areas. Common open space may contain accessory structures, paved bicycle and/or walking paths, agricultural uses, wetlands, improvements necessary or desirable for religious, educational, non-commercial, recreational or cultural uses.
 - 2. The area of common open space within a “PUD” project shall not be less than twenty percent (20%) of the total land area of the project. However, when a water or wetland feature exists on the subject site, water and/or wetlands shall not account for more than fifty percent (50%) of the required open space.
 - 3. Open spaces shall be conveniently located in relation to dwelling units.
 - 4. Open spaces shall have reasonable, minimum dimensions which are usable for the functions intended and which will be maintainable. Open space designs which emphasize perimeter walking paths as the primary open space feature are not permitted.

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5. All public areas and facilities which are to be dedicated to a public agency shall be so dedicated prior to approval of a final development plan, unless a binding agreement is provided in lieu of that dedication.
6. Legal instruments setting forth the manner of permanent maintenance of common open space and facilities shall be submitted to the township attorney for review before the township board approves the final development plan. Such instruments may include dedication to permanent conservation easements or homeowner associations.
7. Where a homeowner association is to be used to maintain common open spaces and facilities, the developer shall file a declaration of covenants and restrictions that will govern the homeowners association. The provisions shall include, but shall not be limited to the following:
 - a. The homeowners association shall be established before any dwelling in the "PUD" is sold;
 - b. Membership in the homeowners association shall be mandatory for each dwelling unit buyer and for any successive buyer and shall be so specified in the covenants;
 - c. Restrictions shall be permanent;
 - d. The homeowners association shall be made responsible for liability; and dwelling owners shall pay their prorated share of the costs and this requirement shall be specified in the covenants.
 - e. The parking requirements set forth in Chapter 15 shall apply, except the number of spaces may be reduced, if approved by the Butler Township Board of Trustees, upon recommendation of the Planning Commission, as part of the final development plan. Such reductions shall be based upon specific findings.

SECTION 10.03 INFORMAL PRELIMINARY CONFERENCES

A. Informal preliminary conferences:

Prior to a formal application, the applicant is required to have two (2) informal preliminary conferences; one with the Township Zoning Administrator and the Township Supervisor, the other with the Township Planning Commission. The purpose of the conferences is to discuss the proposed development, review procedures, requirements and standards of the Township. The applicant is

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encouraged to present concept plans, site data and other information that will explain the proposed developments. Statements made in these conferences shall not be legally binding.

B. Application:

Following the preliminary conferences, the applicant shall make an application for a "PUD" special use permit along with ten (10) sets of the preliminary development plans and the application fee (as set by resolution of the Township Board of Trustees) to the Township Zoning Administrator. The applicant shall, at a minimum, contain the following:

1. The applicant's name, address, and phone number.
2. Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as a sales agreement).
3. The name and address of all persons, firms or corporations having a legal or equitable interest in the property.
4. The address of the property.
5. The legal description and parcel identification number of the property.
6. Project descriptions.
7. Size of the property in acres.
8. The signature of the applicant and the property owner.

Upon receipt of the completed application, application fee and preliminary development plan, the Township Zoning Administrator shall forward copies of the plan and the application form to the township engineer, planner and any other persons or agencies deemed appropriate. The balance of the plans and the original application form shall be distributed to the Planning Commission to allow for their review of the proposed "PUD".

C. Preliminary Development Plan:

The preliminary development plan shall contain the following:

1. The date, north arrow, and scale, which shall not be smaller than 1 inch equals 50 feet.
2. The location sketch of the site in relation to the surrounding area. This sketch shall label the land uses on all adjacent property.
3. The legal description of the property.
4. The parcel size in acres or square feet.
5. All lot and property lines, with dimensions.
6. The location of all existing and proposed structures on the site.

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7. The location of all existing and proposed streets, driveways, alleys, parking areas and easements, including the total number of parking spaces, parking calculations and typical dimensions.
8. The size, location and proposed use of all areas devoted to open space.
9. The general landscape concept, showing tree masses to be preserved, added buffer areas, screening, and similar features.
10. All wetland areas, flood plain boundaries and bodies of water.
11. Existing topographical contours at a minimum of two foot intervals.
12. General layout of all proposed utilities including: water, sewer, telephone, gas and electrical services.

The applicant shall also provide a written statement describing each of the following:

1. The general character of the "PUD".
2. The gross residential densities and percent of the proposed "PUD" area to be covered by buildings and parking areas.
3. The acres allocated to each use.
4. The method and responsibility for maintenance of open areas, private streets, recreational amenities and parking areas.
5. All environmental sensitive areas.

D. Parallel Plan

The applicant shall also prepare a parallel design plan for the project consistent with the requirements and design criteria of the Butler Township subdivision regulations, preliminary tentative plat stage. The parallel plan shall meet all of the following minimum lot area and width standards. These minimum lot area and width requirements already incorporate a density bonus for a "PUD" project.

District	Lot Area (Sq. Ft.)	Lot Width in. (Lineal Ft.)
R-2 Low Density Residential	1 Acre	150
R-3 Medium Density Residential	(1/2 Acre or 22,000 sq. ft.)	100

1. Lots in the parallel plan shall provide sufficient building envelop size without impacting wetlands regulated by the Michigan Department of Environmental Quality (MDEQ).

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2. The Planning Commission shall review the design to determine the number of lots that could feasibly be constructed following the parallel design. This number shall set the maximum density number of dwelling units for the site allowable under the “PUD” provisions of this Ordinance.
3. However, riparian lots shall not be reduced in size from the dimensions listed unless granted a variance by the Township Zoning Board of Appeals.

The Planning Commission may allow an exemplary open space community to include one or more of the following optional provisions. In order to qualify for an optional provision, the applicant must demonstrate to the Planning Commission and to the Township Board of Trustees, that the proposed project exceeds the minimum standards for a “PUD”.

4. In order to qualify for development under optional provisions of this section, all structures within the development, including single family dwellings, shall be subject to architectural review by the Planning Commission and the Township Board of Trustees. Buildings shall provide harmony with adjacent uses in terms of texture, materials, peaked roof lines and massing, but there shall be a variation of front facade depth and roof lines to avoid monotony. Building elevations are required for all structures.
5. A variable density bonus of ten percent (10%) shall be allowed as an incentive for the use of the PUD process. An additional density bonus of ten percent (10%) may be approved at the discretion of the Planning Commission and the Township Board of Trustees based upon a demonstration by the applicant of design excellence in the “PUD” project. In order to be eligible for the density bonus the “PUD” must meet all of the following criteria:
 - a. Provide perimeter transition areas around all sides of the development that are at least one hundred and fifty (150) feet in depth.
 - b. Cleanup of on-site contamination, if necessary.
 - c. Providing a minimum of thirty percent (30%) open space in the development.
6. After reviewing the preliminary, the Planning Commission shall transmit its recommendation to the applicant, along with any suggested changes or modifications.

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E. Impact Assessment

1. The Planning Commission may require the applicant to prepare and submit an impact assessment. When required, preparation of the impact assessment shall be the responsibility of the applicant. The applicant shall use qualified professional personnel to complete the impact assessment. The impact assessment shall describe in detail the effect and impact that the proposed "PUD" will have, or may have, upon or with respect to any of the following:
 - a. Streams, rivers, wetlands, and the quality of surface and ground waters.
 - b. Public utilities.
 - c. Displacement of people and other land uses by the proposed use.
 - d. Character of the area.
 - e. Traffic.
 - f. Wildlife.

2. The impact assessment shall, if required by the Planning Commission, include statements and comments from the following public agencies or officials concerning any aspects of the proposed "PUD" within their respective responsibilities and jurisdictions:
 - a. Township Fire Department.
 - b. School districts represented within the Township.
 - c. The Department of Natural Resources.
 - d. Branch County:
 - Sheriff's Department
 - Health Department
 - Road Commission
 - Drain Commissioner
 - e. Such other agencies as determined appropriate by the Planning Commission.

3. The Planning Commission and Township Board of Trustees shall consider the criteria listed below in their evaluation of the impact assessment. Failure to comply with any of the criteria shall be sufficient justification to deny approval.

SECTION 10.04 PUBLIC HEARING AND PRELIMINARY APPROVAL PROCEDURES

1. Within forty-five (45) days after receipt of the completed application and fee the Planning Commission shall schedule a public hearing on the request. A

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notice of the public hearing shall be published in a newspaper of general circulation in the Village not less than fifteen (15) days before the date of the hearing. A notice shall also be sent by mail or personal delivery to the owners of property that is the subject of the request, to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request, and to the occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

The notice shall do all of the following:

- a. Describe the nature of the planned unit development request.
 - b. Indicate the property which is the subject of the planned unit development request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently existing within the property. If there are no street addresses, other means of identification may be used.
 - c. State when and where the planned unit development request will be considered.
 - d. Indicate when and where written comments will be received concerning the planned unit development request.
2. Within sixty (60) days of the public hearing the Planning Commission shall recommend to the Township Board of Trustees, one of the following:
- a. Approval of the preliminary plan, or

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- b. Approval of the preliminary plan subject to certain specified conditions, or
- c. Denial of the preliminary plan.

In making a recommendation to approve the "PUD" the Planning Commission must find that the purposed "PUD" meets the following standards:

1. Granting the "PUD" special use permit will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
2. The "PUD" will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the "PUD" as approved.
3. The "PUD" will be compatible with the master plan of the township and consistent with the intent and purpose of this Chapter.
4. The "PUD" will not result in significant adverse effects upon nearby or adjacent lands, and will not change the essential character of the surrounding area.
5. The "PUD" is designed and laid out to preserve natural resources and natural features, to the fullest extent possible.
6. Within sixty (60) days after receipt of the Planning Commissions recommendation the Township Board of Trustees shall either:
 - a. Approve the preliminary plan
 - b. Deny approval of the preliminary plan
 - c. Refer the preliminary plan back to the Township Planning Commission for further review.

SECTION 10.05 FINAL APPROVAL PROCEDURES

- A. After the preliminary plan has been approved by the Township Board of Trustees the developer shall prepare the final development plan. The applicant shall submit fifteen (15) sets of the final development plans to the Township Zoning Administrator. The Zoning Administrator shall forward copies of the final plan to the township fire chief, engineer, planner and others deemed appropriate. The balance

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of the plans shall be turned over to the zoning administrator for distribution to the Planning Commission for their review.

- B. The final development plan shall include all of the information required on the preliminary development plan and all additional information requested by the Planning Commission.
- C. The final plan shall incorporate all recommendations of the Planning Commission pursuant to the Commission's review of the preliminary plan, or shall indicate how the final plan fails to incorporate the Commission's recommendations. The plan shall be certified by a licensed architect, register surveyor or professional engineer. In addition, final plan shall include the following:
 - 1. Architectural renderings or specific statements as to the type and style of construction to be used in the proposed buildings along with the height and area of each building.
 - 2. Projected time for completion of the entire project.
 - 3. Proposed phasing, if any, and the projected time for completion of each phase.
 - 4. Landscaping plans.
 - 5. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon.
 - 6. Engineering plans showing, as necessary, water, waste disposal, drainage, exterior and street lighting, electricity, telephone and natural gas installations, and the nature and extent of earthwork required for site preparation and development.
 - 7. Any other information required by the Planning Commission to assist in the evaluation of the proposed "PUD".
- D. Within forty-five days of the receipt of the complete set of the final plans the Planning Commission shall review the plans for their completeness, act upon the plans and send their recommendation to the Township Board of Trustees.
- E. Within sixty days of the Township Board of Trustees receipt of the Planning Commission's recommendation, the Township Board shall review the final development plans and recommendation submitted by the Planning Commission. In making its decisions, the Township Board shall determine:
 - 1. Whether the final development plan complies with the standards, conditions, and requirements of this Chapter.
 - 2. Whether the "PUD" promotes the intent and purposes of this Chapter.

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3. Whether the “PUD” will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
4. Whether the “PUD” will be consistent with the public health, safety, and welfare needs of the township.

Reasonable conditions may be imposed upon the Township Board of Trustees approval of a “PUD” special use permit subject to the standards listed in Section 19.01.

SECTION 10.06 APPLICATION FEE

The Township Board of Trustees shall by resolution, establish a fee schedule for special use permit applications under this ordinance.

SECTION 10.07 PERFORMANCE GUARANTEE

Performance bonds may be required by the Township Board of Trustees in accordance with Section 19.02.

SECTION 10.08 CONSTRUCTION COMPLIANCE

Any permit issued for construction pursuant to the “PUD” special use permit shall be valid only so long as there is compliance with the final development plan as accepted by the Township Board of Trustees.

SECTION 10.09 AMENDMENTS AND REVISIONS

- A. A developer may request a change in an approved final development plan. Except for those changes determined to be minor, as provided below, changes to an approved final development plan or any conditions imposed on a “PUD” special use permit shall be reviewed and approved, approved with conditions, or denied by the Planning Commission and the Township Board of Trustees pursuant to the procedures provided by this Chapter for an original request.
- B. Minor changes to a final development plan may be approved by the Planning Commission without review and approval of the Township Board of Trustees. “Minor changes” are limited to the following:
 1. Changes in residential floor area of not more than five percent (5%) provided that there is no increase in the number of units.
 2. The relocation of building footprints by not more than three (3) feet, unless a specific setback or separation distance is imposed as a condition of the “PUD” approval.

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3. An increase in area portions of the site designated as “not to be disturbed”.
4. The substitution of plan materials by similar types of landscaping on a 1-to-1 ratio, as determined by the zoning administrator.
5. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the “PUD” which are not significant in relation to the “PUD” and would not have any significant adverse effect on adjacent or nearby lands or the public health, safety, or welfare.

SECTION 10.10 EXPIRATION AND EXTENSION OF APPROVAL PERIOD

The approval of the final development plan for a planned unit development shall be for a period not to exceed two (2) years, from the date of the Township Board of Trustees final approval date, to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within two (2) years after the approval is granted, the approved final development plan shall be void. The Township Board of Trustees may require a new final development plan to be submitted and reviewed in accordance with the requirements for the original application. An extension of the time limit may be approved if the Township Board of Trustees finds that such extension or modification is not in conflict with the public interest.

No zoning amendment passed during the time period granted for the approval of the final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

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CHAPTER 11

SIGN INSTALLATION REQUIREMENTS

SECTION 11.01 PURPOSE AND INTENT

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection. In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Township.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

SECTION 11.02 COMPUTATION OF SIGN AREA

For the purposes of this Ordinance, the total area of a sign shall be expressed in square feet and shall be computed as follows:

- A. **Single-Face Sign.** The total area of a single-face sign shall be computed as the number of square feet within any single or combination of geometric shapes -- such as a square, rectangle, triangle or circle -- encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.

- B. **Double-Face Signs:** For double-face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two (2) foot space between the two faces; the area of the sign shall be computed as one-half (½) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.

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- C. **Three-Dimensional Signs.** For signs which are designed as a three dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one half ($\frac{1}{2}$) the total surface of the geometric form.

SECTION 11.03 PERMIT REQUIRED FOR SIGNS

- A. **Sign Erection Permit:** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a permit shall have been first obtained from the Zoning Administrator, except as provided in Section 11.05 (Signs Exempt from Permit Requirement). Any sign that makes use of electricity, shall, in addition to a sign permit, require an electrical permit from the Branch County Building Department, regardless of size.
- B. **Sign Maintenance or Change of Message:** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.
- C. **Planning Commission Approval:** All subdivision/development signs, time/date/or temperature signs, or any type of sign not explicitly defined herein, must be approved by the Butler Township Planning Commission before a permit shall be issued.
- D. **Permit Applications:** Applications for sign permits shall be made upon forms provided by the Building Official for this purpose and shall contain the following information:
 - 1. Name, address and phone number of applicant.
 - 2. Location of the building, structure, or lot on which the sign is to be attached or erected.
 - 3. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
 - 4. Position of the sign in relation to nearby buildings, structures, signs, property lines, and rights-of-way, existing or proposed.

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5. Zoning district in which the sign is to be located.
 6. Two (2) copies of the sign plans and specifications for construction, and attachment to the building or ground. The sign plans shall include all pertinent data including highest point, low point clearance, face outline and total face area with method of calculation. When public safety so requires, the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
 7. Name and address of the sign erector.
 8. Such other information as the Building Official may require to show full compliance with this and all other applicable laws of the Township and the State of Michigan.
- E. **Sign Erection Permit Expiration.** A sign permit shall become null and void if the work for which the permit was issued is not completed within 90 days of the date of issue.
- F. **Compliance Certification:** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this Chapter, shall be issued a Zoning Permit Certificate. The Zoning Administrator shall cause existing signs to be inspected if deemed necessary by him to determine continuation of compliance with the provisions of this Chapter.

SECTION 11.04 GENERAL SIGN PROVISIONS

- A. **Public Rights-of-Way:** No sign (or any pole or support cable of any nature) except those established and maintained by the Township, County, State, or Federal Governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this Ordinance.
- B. **Sign Heights:** The highest point of any sign shall not exceed twenty-five (25) feet above the ground or grade level.
- C. **Traffic Interference.** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.

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- D. **Clear Corner Vision:** No sign above a height of thirty (30) inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, unless visual under clearance can be assured on the plans.
- E. **Proximity to Electrical Conductors:** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.
- F. **Illumination:** All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property which is used for residential purposes.
- G. **Fire Escapes:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
- H. **Wall Signs:** No wall sign shall project beyond or overhang the wall, or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.
- I. **Freestanding Signs:** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
- J. **Liability Insurance:** If the height of a proposed or existing sign is such that if it fell or could fall into the public right-of-way or adjacent property, the owner of said sign shall carry sufficient liability insurance to protect the public and adjacent property owners from damage and injury from the fallen sign.

SECTION 11.05 SIGNS EXEMPT FROM PERMIT REQUIREMENTS

No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

- A. **Government Signs.** Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs.
- B. **Flags:** Flags, pennants or insignia of any governmental or nonprofit organization

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when not displayed in connection with a commercial promotion or as an advertising device.

- C. **Address Signs:** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- D. **Street Signs:** Signs erected by the township, county, state, or federal government for street names, traffic control, or direction and information.
- E. **Private Traffic Signs:** Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.
- F. **Handicapped Signs:** Not exceeding four (4) square feet each and bearing no advertising matter.
- G. **Architectural Features/Artwork:** Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
- H. **Small Accessory Signs:** Any accessory sign erected on a premise which is no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals.
- I. **Temporary Signs, Banners, Flags:** Temporary Signs, not specifically regulated in any other section of this Ordinance, including but not limited to: political or campaign signs, real estate signs, signs for special events or activities, air or gas filled signs, banners, flags, and the like shall be permitted subject to the following conditions:
 - 1. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any street right-of-way.
 - 2. All temporary signs must be removed within fourteen (14) days of the conclusion of the event, activity, election, sale, etc., for which the temporary sign is displayed.
 - 3. The total area and height of temporary signage shall not exceed the following standards:

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- a. In residential districts, temporary signage shall be limited to six (6) square feet in area and six (6) feet in height.
 - b. In all commercial and industrial districts, temporary signage shall not exceed thirty-two (32) square feet of total sign area per side or a height of eight (8) feet.
- J. Seasonal produce and farm product stands.

SECTION 11.06 SIGNS PROHIBITED THROUGHOUT THE TOWNSHIP

The following signs are prohibited throughout the Township, notwithstanding anything to the contrary in this Chapter.

- A. **Unsafe Signs:** Any sign which is structurally or electrically unsafe.
- B. **Utility Poles and Landscaping:** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the township, county, state, or federal government or a public transit agency.
- C. **Businesses No Longer Existing (Abandoned Signs):** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
- D. **Sign Structure Without Sign:** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.
- E. **Roof-mounted Signs**
- F. **Other Signs Prohibited:** Other signs not expressly permitted shall be prohibited.

SECTION 11.07 DISTRICT REGULATIONS.

- A. **Signs Permitted in Agricultural and Residential Districts:**
 - 1. For each dwelling unit, one (1) address sign in compliance with Section 11.05(c) of this Zoning Ordinance.
 - 2. Small accessory signs no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one premise shall not exceed eight (8) square feet.

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3. One (1) subdivision entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provisions and shall not exceed twenty-four (24) square feet in area or a height of six (6) feet above grade. The location and appearance of all subdivision/condominium signs shall be subject to review and approval by the Planning Commission at the time of site plan review, provided that such signs shall be located no closer than twelve (12) feet from any property line. Adequate provisions shall also be made at the time of site plan review to insure continued maintenance of the sign.
4. No more than one (1) freestanding and one (1) wall institutional sign for schools, churches, libraries, or similar institutions having an area of no more than thirty-two (32) square feet, having a height of no more than six (6) feet above the established grade, and located no closer than ten (10) feet from any property line.
5. Signs of a combined area of not more than thirty-two (32) square feet advertising the name and activities of a permitted nonresidential use or legal non-conforming use. Said sign shall be located on the same parcel as the use. Signs for discontinued legal non-conforming uses shall be removed as provided for in this Chapter.
6. Customary farm and crop signs on active farms.

B. Signs Permitted in the C-1 Commercial District:

1. The total sign area for an occupied parcel of property in the C-1 Commercial District shall not exceed 125 square feet per 100 feet of street frontage with the total sign area for any parcel not to exceed 200 square feet.
2. One (1) freestanding sign may be allowed per property. Such sign shall not exceed twenty-five (25) feet in height and 100 square feet in area.
3. In addition to the signs allowed in paragraphs 1 and 2 above, wall sign(s) may be erected on the rear or parking lot side of a premises not exceeding one-half (½) square foot for each linear foot of the rear length of the principle building(s), provided that the total sign area shall not exceed thirty-two (32) square feet.
4. Gasoline service stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed twenty (20) square feet per pump island. In no event shall the total area of all such signs exceed one-hundred twenty (120) square feet.

C. Signs Permitted in I-1 (Industrial) District:

1. One (1) wall sign may be erected per building face up to one-hundred (100) square feet in area or 10% of the total facade area of the building which ever is less.

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2. One (1) freestanding (ground or pole mounted) sign may be erected provided said sign does not exceed one-hundred (100) square feet of display area per side. Such sign shall have a height of no more than twenty (20) feet above the established grade and be erected no closer than twenty (20) feet from any property line.
3. In addition to signs permitted in paragraph 1 above, one (1) wall sign shall be permitted for each tenant having an individual means of entranceway into the side or rear of a building. Such sign shall not exceed six (6) square feet in area, and shall be erected not less than four (4) feet nor more than twelve (12) feet above the established grade.
4. Directional signs, up to four (4) square feet in area, designating entrances, exits, parking and unloading areas, shipping docks, and similar internal traffic control signs shall be permitted and located no closer than within five (5) feet of any property line.

SECTION 11.08 CONSTRUCTION AND MAINTENANCE REQUIREMENTS

- A. **Materials and Design:** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the County Building Code and requirements of this Chapter.
- B. **Fastenings:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use, and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.
- C. **Freestanding Signs:** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.
- D. **Sanitation/Landscaping:** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.
- E. **Maintenance:** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the Township Zoning Administrator or County Building Official.

SECTION 11.09 NON-CONFORMING SIGNS

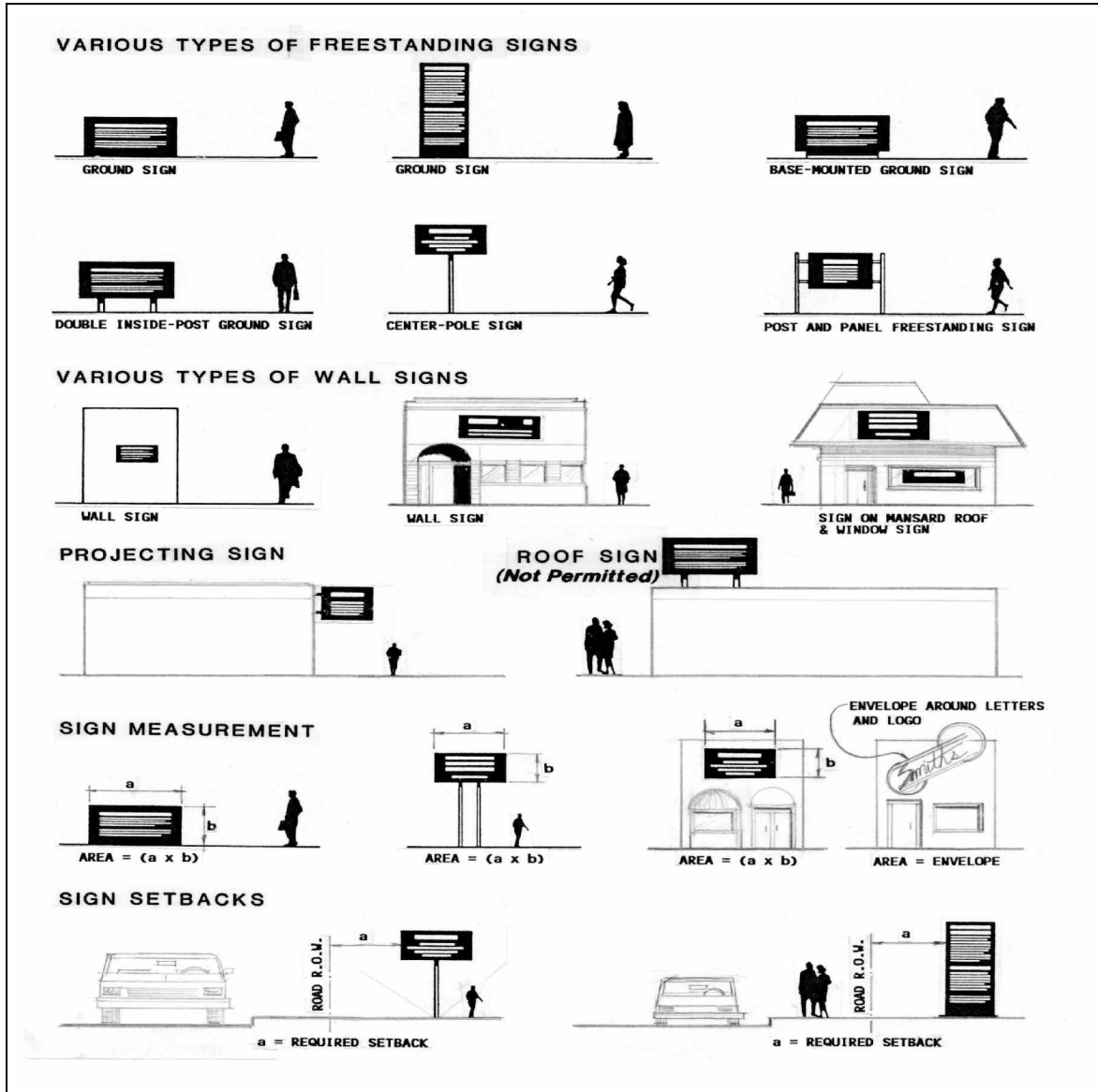
- A. **Intent:** It is the intent of this Chapter to encourage eventual elimination of signs that as a result of the adoption of this Chapter become non-conforming, to administer this Chapter to realize the removal of illegal non-conforming signs, and to avoid any unreasonable invasion of established private property rights.
- B. **Lawful Existing Signs:** Any sign lawfully existing at the time of the adoption of this Chapter which does not fully comply with all provisions shall be considered a legal non-conforming sign and may be

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permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.

- C. **Continuance:** A non-conforming sign shall not:
1. Be expanded or changed to another nonconforming sign;
 2. Be relocated.
 3. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination;
 4. Be repaired or re-erected after being damaged if the repair or re- erection of the sign, within any 12 month period, would cost more than 50 percent of the cost of an identical new sign. If deemed necessary by the Building Official, the cost of an identical new sign shall be determined as the average of no less than three (3) cost estimates obtained from three (3) contractors.
 5. Be altered unless the alteration or reconstruction be in compliance with the provisions of this Chapter. For the purpose of this Chapter only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.
- D. **Termination of Business:** Nonconforming signs and sign structures shall be removed or made to conform within 60 days of the termination of the business or use to which they are accessory.
- E. **Change of Property:** If the owner of a sign or the premises on which a sign is located, changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Chapter.
- F. **Administration:** The Zoning Administrator shall make every reasonable effort to identify all the nonconforming signs within the Township. The Zoning Administrator shall keep complete records of all communications and other actions taken with respect to such nonconforming signs.

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CHAPTER 12

SITE PLAN REVIEW AND APPROVAL PROCEDURES

SECTION 12.01 PURPOSE

The site plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Butler Township Master Plan will be assured, and the Township will develop in an orderly fashion.

SECTION 12.02 WHEN SITE PLAN APPROVAL BY THE PLANNING COMMISSION IS REQUIRED

1. **Site Plan Approval Required** Approval of a site plan shall be required for any of the following:
 - a. Any development or use for which submission of site plan approval is required by provisions of this Ordinance.
 - b. Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building.
 - c. Any proposal to change, replace with a different use, add or recommence a use on an existing site, including expansions in area, volume or intensity.
 - d. All condominium developments.
 - e. Any proposal to build, expand or decrease an off-street parking lot.
 - f. Any proposal to create, expand or alter a use or structure which involves using, storing, or generating hazardous substances.
 - g. Special Land Uses in all districts.
 - h. Wireless communication facilities.

2. **Site Plan Review Not Required by the Planning Commission.**
 1. Uses with approved site plans or existing buildings which propose a change constituting ten percent (10%) or less of the building floor area or ten percent or less of the required parking spaces may be reviewed, approved and administrated by the Township Zoning Administrator. Such review and approval by the Township Zoning Administrator shall be duly reported to the Planning Commission at the next regularly scheduled meeting.

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2. Single and two-family dwelling units on individual lots.
3. Residential accessory buildings in residential or agricultural zoning districts.
4. Agricultural accessory buildings located in agricultural zoning districts.

Uses or activities not requiring site plan review before the Planning Commission shall include a sketch plan with accurate dimensions and submitted to the Township Zoning Administrator for review showing the following information:

- a. The parcel in question with dimensions and legal description
- b. Plan view of existing and proposed buildings and structures
- c. Existing and proposed building elevations.
- d. Location of drives, public or private roadways, sidewalks, easements, and parking areas.
- e. Location of existing or proposed utilities, water, and sewage systems.
- f. Description of adjacent land uses.
- g. Location of existing natural and man-made site features including wood lots, wetlands, streams, lakes, ponds, and similar environmental conditions.
- h. A description of any change in grade or drainage system, except those changes to accommodate basement and driveway grading. All excavation and grade changes shall have been reviewed and approved by the Branch County Drain Commissioner's office when located within 500 ft. of a watercourse (drain, creek, stream, river, pond or lake).
- i. Any other information required by the Township Zoning Administrator necessary to establish compliance with this and other ordinances of Butler Township.

SECTION 12.03 PRELIMINARY SITE PLAN CONSIDERATION /PRE-APPLICATION MEETING

1. **Preliminary Site Plan Consideration.** Applicants for site plan approval are encouraged to submit a conceptual or preliminary site plan for discussion and consideration by the Planning Commission.

SECTION 12.04 APPLICATION PROCESS

Application for site plan approval shall be made to the Township by filing of not less than fifteen (15) copies of an application form and detailed site plan with the office of the Township Zoning

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Administrator a minimum of 30 days in advance of the Planning Commission meeting at which the plan is to be first considered. Fees shall be paid in accordance with the Township fee schedule.

The Township Zoning Administrator shall examine the site plan. If it is incomplete, it shall be returned. If complete, it shall be processed.

1. **Application Form.** Each submittal for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:
 - a. The applicant's name, address, and phone number.
 - b. The address and parcel number of the property.
 - c. Project description, including structures, units, floor area, parking spaces, and employees by shift.
 - d. Existing zoning classification, land uses, and structures on the subject parcel.

2. **Site Plan Information.** Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an scaled drawing of the site. The following information shall be included:
 - a. Name and address of development and general location sketch.
 - b. Name, address and phone number of engineer, architect and/or designer.
 - c. North arrow, scale, and date of original drawing and revisions.
 - d. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor or Registered Professional Community Planner. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to an existing structure may be prepared by the builder or contractor.
 - e. A legal description.
 - f. The dimension and boundaries of all proposed lots and rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated.

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- g. Existing topographic elevations at two foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions. Indicate direction of drainage flow.
- h. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands.
- i. All required minimum setbacks from the existing or proposed right-of-way and from adjacent lots.
- j. The location and dimensions (length, width, height) of all existing and proposed structures, setbacks, rights-of-way and private easements and driveway locations.
- k. With residential proposals, a site summary indicating the number and location of one bedroom units, two bedroom units, etc., typical floor plans with the square feet on floor areas; density computation, recreation facilities, open spaces, street names, and lot coverage.
- l. With non-residential proposals, the number of offices, employees, floors and typical floor plans and cross sections.
- m. Proposed parking including layout and dimensions of parking spaces, number of spaces provided and type of surfacing.
- n. Proposed traffic and pedestrian circulation patterns. Designated loading and unloading areas, barrier free access, any fire lanes, and carports.
- o. Proposed finish grade of buildings, driveways, walkways, and parking lots.
- p. Proposed water service, sanitary sewer, storm water management, and fire hydrants.
- q. Soil erosion and sedimentation control measures.
- r. Landscaping plan.
- s. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
- t. Any variances, performance guarantees, types, and terms.

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- u. Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or Township. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services, impact on historical or cultural resources, displacement of people or other uses as a result of the proposed development, alterations of the character of the surrounding area, effect on the Township's tax base and adjacent property values, or other data which the Township may reasonably deem necessary for adequate review.
- v. The size, location and description of any proposed interior or exterior areas or structures for storing, using, loading or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site in quantities of hazardous substances which will be used or stored on-site in quantities greater than 100 kilograms or 25 gallons per month.
- w. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
- x. Plans depicting existing and proposed building elevations.

SECTION 12.05 CRITERIA FOR GRANTING SITE PLAN APPROVAL

Each site plan shall conform to all applicable provisions of this Ordinance. The following criteria shall be used by the Planning Commission as a basis upon which site plans will be reviewed and approved. The Township shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

1. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
2. The site plan shall comply with the zoning district requirements.
3. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree removal and topographic modifications.
4. The site plan shall provide reasonable visual and sound privacy.

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5. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
6. There shall be a pedestrian circulation system and pedestrian improvements may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
7. All streets shall be developed in accordance with the Branch County Road Commission design specifications. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a Township recognized source of reference. The applicant may be required to dedicate adequate land and improvements to the Township in order to achieve access which is safe and convenient.
8. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjacent lots or the capacity of the public or natural storm drainage system.
9. All off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, shall be screened by walls, fencing or landscaping of effective height as required within the landscape provisions of this ordinance.
10. Adequate services and utilities including sanitary sewers, and improvements shall be provided, sufficient to serve the development.
11. Site plan approval may be conditioned on the applicant receiving necessary state and federal environmental and hazard permits before final site plan approval or an occupancy permit is granted.
12. An objective of site plan review shall be to protect the rural character of Butler Township and to promote public health, safety and general welfare.
13. It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed.

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SECTION 12.06 REVIEW AND APPROVAL. Site Plans shall be reviewed in accordance with the following procedures:

1. **Department Review.** The Planning Commission may secure comments from the County Building Inspector, Road Commission, Sheriff's Department, and the Township's consultant Engineer and Planner.
2. **Site Plan Approval.** The Township Planning Commission is hereby authorized to review and approve, with or without conditions or to review and deny approval, all site plans submitted under this Ordinance. When the Planning Commission approves a site plan with conditions from the applicant, the Township Zoning Administrator shall require a revised site plan with a revision date, indicating said conditions on the site plan.
3. **Record of Action.** Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the Butler Township Planning Commission. A final copy of the approved site plan shall be signed by a Planning Commissioner so marked and placed on file with the Township Clerk's office.
4. **Final Site Plan.** When a site plan approval is required, no building permit shall be issued until the plan is on file with the Township Clerk.

SECTION 12.07 ISSUANCE OF BUILDING PERMIT AFTER SITE PLAN APPROVAL

Construction plans shall be submitted for review by the County Building Inspector and, as applicable, the Township Engineer. Upon review and finding that the construction plans meet with the requirements of site plan approval and other applicable ordinances of the Township, the Building Inspector shall issue a building permit for construction.

If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, unless extended by a vote of the Planning Commission.

SECTION 12.08 MODIFICATION OF AN APPROVED SITE PLAN

Once site plan approval has been granted by the Planning Commission, changes to the approved site plan shall require a re-submission and payment of the required application fee.

SECTION 12.09 CONFORMITY TO APPROVED SITE PLAN REQUIRED

Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of Chapter 21.

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Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. A Certificate of Occupancy shall be withheld by the Building Official in any case where the site plan and major conditions as approved by the Planning Commission have not been complied with. Any minor variations may be approved by the Building Official, and shall be reported within 30 days to the Planning Commission after the issuance of Certificate of Occupancy.

CHAPTER 13

PRIVATE ROAD STANDARDS & PROCEDURES

SECTION 13.01 ACCESS REQUIREMENTS

All parcels of land which are not part of a recorded plat shall have access to a dedicated public street or access to a private road as described herein.

SECTION 13.02 REQUIRED APPROVAL

No person shall commence construction of a private road within the Township without prior approval by the Township Board. Applications for approval shall conform to the rules of procedure as promulgated by the Planning Commission and as adopted by the Township. A construction permit for a private road as approved by the Township Board shall be valid for a period of not more than two years. The developer of a private road shall be responsible for maintenance of the private road in front of all unsold lots or where a maintenance agreement is in effect. The developer is also responsible for policing all parcels that remain unsold of all dumping and trash.

SECTION 13.03 STANDARDS

- A. All private roads shall be built to Branch County Road Commission standards.
 - 1. All private roads shall be a minimum of sixty-six (66) feet in width and shall be created by an easement for purposes of ingress and egress for all abutting lots which must use the private road for those purposes.
 - 2. Plans shall show all existing and proposed grades, the location of all existing and proposed drainage facilities and structures and any other physical conditions existing adjacent to the subject private road.
 - 3. The angle of intersecting streets shall be between sixty-five (65) degrees and ninety (90) degrees. Minimum radius at intersections shall be thirty (30) feet measured along the parcel boundaries.
 - 4. There shall be a minimum of fifty (50) feet of flat gradient along the center line profile of the new private road from the center line of the public road before entering into a vertical curve.

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5. An aggregate surface twenty-two (22) feet wide shall be constructed upon prepared sub-grade in accordance with the provisions of this ordinance. Topsoil shall be stripped and stockpiled outside the 66' right-of-way easement and spread in the ditches and on the slopes at the completion of the project.
 6. Drainage ditches shall be constructed on each side of the proposed private road in cut sections and fill sections where required to a minimum depth of two feet and deeper where necessary at intersections to permit culverts to be installed. Either concrete or 12 gauge corrugated metal pipe shall be used at intersections and at driveway entrances. Minimum inside diameter of a crossroad culvert shall be fifteen (15) inches and a minimum inside diameter for a driveway culvert of twelve (12) inches with a minimum length of twenty-two (22) feet. Sodding, planting, rip-rap, top soil, seeding or other measures of erosion control shall be used where required. In areas of critical drainage or under the jurisdiction of the County Drain Office, the County Drain Commissioner will specify the culvert size and length.
 7. Private roads which are cul-de-sacs shall have a maximum length of six hundred feet measured from center-lines of intersections along the centerline to the furthest point of the cul-de-sac. Exceptions may be made where unusual topographic conditions exist or where land configurations require a maximum length extension to otherwise meet the purposes of this Ordinance.
 8. Minimum turning radius and pavement width at cul-de-sac terminus shall meet Branch County Road Commission standards.
- B. The applicant shall submit at least two proposed names for a private road to the Township Board. All proposed street names shall meet Branch County 911 Central Dispatch requirements and shall not be similar to or cause confusion with existing named roads.
- C. The applicant shall submit a drawing of said private road, as well as a letter of intent stating general specifications for said private road, including total proposed length. In no event shall any private road be extended beyond the length as shown on said drawings and letter of intent.
- D. For any parcel of land not fronting on an established public road, an easement for the construction and maintenance of various public utilities including natural gas, electric telephone, sewer, water, storm sewer, or similar improvement shall be provided. No building permit shall be granted for any parcel fronting on the private road until such easement has been provided by the applicant.

SECTION 13.04 DEED RESTRICTIONS

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- A. Prior to the approval of the proposed private road, the applicant shall submit to the Township a set of deed restrictions in a form acceptable to the Township which shall provide for the creation of the private road easement and the creation of a homeowners association whose members shall be the property owners abutting said road. The association shall be responsible for the upkeep and maintenance of said road. No more than one association shall be responsible for any one private road. The Township shall be given the authority to assess the parcels of owners who become delinquent in the payment of their portion of the maintenance and up-keep costs and fees expended by the Township relating to this assessment. Said restrictions shall be recorded prior to the completion of the road.

- B. The applicant shall also submit to the Township, a document in a form sufficient for recording with the county Register of Deeds stating that in no event shall the association, the individual homeowners, the applicant or their heirs or assigns hold the Township liable for the costs of road signs, traffic control signs, maintenance, lighting or snow removal.

- C. Road Maintenance Agreement: Owners of private roads may petition the Township Board for permission to enter into a maintenance agreement, with authority given to the Township Board to assess the parcels of owners who become delinquent in the payment of their portion of the maintenance and upkeep costs as provided in this Ordinance by submitting to the Township Board the following:
 - 1. A petition, executed by 100% of the owners of said private road, requesting that the Township be given the authority to make the assessments provided for herein.

 - 2. A set of proposed deed restrictions or in the alternative, a proposed maintenance agreement, in a form acceptable to the Township Board and in a form sufficient for recording with the Branch County Register of Deeds, executed by 100% of the owners of the private road which shall provide for the maintenance and upkeep of the private road and which shall also give the Township Board the authority to make the assessments provided in this Ordinance. In the event of ownership by joint tenants, tenants-in-common, or tenants by the entireties, signatures of all those with an ownership interest in the private road shall be required. The maintenance agreement or deed restrictions shall be considered covenants running with the land.

 - 3. One hundred percent (100%) of the owners of the private road shall also submit to the Township a document, in a form sufficient for recording with the County Register of Deeds, stating that in no event shall the association, the individual owners, or their heirs or assigns hold the Township liable for the costs of road signs, traffic control signs, lighting, maintenance or snow removal. The Township Board shall have the discretion to accept or reject any request to assume partial or total responsibility for the making of the assessments provided for herein. If the Board accepts the request, the proposed deed restrictions and/or maintenance agreement shall be executed

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forthwith and recorded in the office of the County Register of Deeds, prior to the making of any assessments by the Township. The term “owners of private road” shall be construed to mean those properties that either abut or front said private road.

4. Preparation of Plans and Legal Descriptions: All drawings, legal descriptions and private road specifications shall be prepared and sealed by a registered civil engineer and/or registered land surveyor.
5. Conditions for Issuing of Permit:
 - a. Except as provided in this Ordinance, no building permits shall be issued for parcels abutting private roads until the Branch County Road Commission has reported to the Township Board that said private road meets the standards provided herein.
 - b. Building permits may be issued (prior to the required reports) by the Building Inspector when any or all of the following conditions are satisfied, and subject to the subbase being installed within the private road easement and upon approval by the County Road Commission.
 - (1) The subject parcel also abuts a dedicated public, county road and,
 - i. Construction permits have been obtained by the applicant for the building permit from Branch County Road Commission for the construction of an entrance from the subject parcel onto the County right-of- way;
 - ii. The applicant's plans provide that no other parcel shall have access permitted through said entrance to the County right-of-way unless the driveway is improved to the standards contained herein.
 - (2) The building permit applicant supplies a performance bond guaranteeing the completion of the private road according to the standards provided herein. The surety bond, to be executed by a surety company authorized to do business in the State of Michigan shall be in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder.
 - (3) In fixing the amount of such surety bond, the Township Board shall take into account the size of the proposed private road, the current prevailing costs of completing the road upon default of the applicant,

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the estimated expense to compel the applicant to comply with the terms of this ordinance by court order or such other conditions and facts as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application. In the alternative, the Township Board may accept a cash bond to be held by the Township under the terms of a written agreement between the applicant and the Township.

- c. Notwithstanding the provisions of this Ordinance, certificates of occupancy will not be issued until the Township Engineer has reported the completion of the road as provided for in this Ordinance.

CHAPTER 14

DEVELOPMENT STANDARDS

SECTION 14.01 PURPOSE

The following are regulations for activities not otherwise provided for in this Zoning Ordinance.

SECTION 14.02 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES

A. Authorization.

In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

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

B. Uses Specified. Uses subject to these controls as defined herein as “adult only businesses” are defined in Chapter 3 Definitions.

C. Site Location Principles.

1. No adult only business shall be located within one-thousand (1000) feet, measured from lot line of the lot upon which the proposed adult use will be situated to the closest lot line of the following: residential zoning district, church, monastery, temple, or similar place of worship, cemetery, school,

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library, public park or playground, non-commercial assembly facility, public office building, licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.), or arcade.

2. An adult only business shall be located as a permitted use in the I-1 Industrial District.
3. No adult only business shall be permitted within one-thousand (1,000) feet radius of an existing adult only business. Measurement of the 1000 feet shall be made from the lot line of the lot upon which the proposed adult use will be situated to the closest lot line of the lot of the closest adult use.

D. Site Development Requirements.

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Planning Commission prior to their use.
3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Planning Commission.
4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semi-public areas.
5. An adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

E. Use Regulations.

1. No person shall reside in or permit a person to reside in the premises of an adult only business.
2. No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working

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at such a place of business shall solicit or accept any fees except those indicated on any such notice.

3. The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
5. No person shall operate an adult personal service business without obtaining a current zoning and building occupancy permit. Such licenses shall be issued by the Zoning Administrator, Building Inspector, or duly appointed designee following an inspection to determine compliance with the relevant ordinances of Butler Township. Such license shall be subject to all regulations of federal, state, and local governments.
6. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from Butler Township, County of Branch, and State of Michigan.

F. Approval Within 90 Days.

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

G. Limit on Re-application.

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

SECTION 14.03 AUTOMOTIVE FUELING STATIONS AND SERVICE STATIONS

A. Purpose.

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

B. Minimum Area and Frontage.

An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than one-hundred-fifty (150) feet and having a minimum area of fifteen-thousand (15,000) square feet.

C. Setbacks.

An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line and not less than forty (40) feet from any side or rear lot line directly adjoining a residential zoning district.

D. Driveway and Curbs.

1. All driveways providing ingress to or egress from an automotive fueling station, service station, repair center, or public garage shall comply with the standards of this Ordinance, and shall not be more than thirty (30) feet wide at the property line. Not more than two (2) curb openings shall be permitted along any street. No driveway or curb opening shall be located nearer than twenty (20) feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than thirty (30) feet, as measured along the property line, to any other driveway. All drive approaches shall otherwise meet Branch County Road Commission standards for construction, turning lanes, and placement.

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2. A raised concrete curb, six (6) inches in height, shall be erected along all driveway openings to minimize erosion and to appropriately direct traffic.

E. Paved Areas.

All parking areas, isles, driveways and loading areas shall be hard surfaced with concrete or a plant-mixed bituminous (asphalt) material and landscaped areas.

F. Equipment Location.

All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right of way.

G. Number of Pumps.

An automotive fueling station, service station, or repair center located on a lot having an area of fifteen-thousand (15,000) square feet or less shall include not more than four (4) double gasoline and fuel pumps or eight (8) single gasoline and fuel pumps and two (2) enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two (2) gasoline and fuel pumps and/or one (1) enclosed stall may be included with the provision of each additional two-thousand square feet of lot area.

H. Walls and Screening.

Where an automotive fueling station, service station, repair center, or public garage adjoins property located in any residential zoning district, screening shall be provided in accordance with Chapter 20 of this Ordinance .

I. Lighting.

All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all requirements of this Ordinance.

J. Outdoor Storage and Parking.

All major repair work shall be conducted completely within an enclosed building. Minor repair work (i.e. the replacement of wipers, light bulbs, batteries, etc.) taking

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one hour or less to complete shall be permitted. There shall be no storage of vehicle components, parts, trash, supplies, or equipment outside of a building. Outdoor storage or parking of vehicles or trailers, other than private passenger automobiles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day, except that equipment rental operations shall be permitted if incidental to the automotive fueling station, service station, or repair center, and if restricted to travel trailers or campers of under twenty-one (21) feet overall length, car-top carriers, and similar auto accessories. Such operations shall be within fenced enclosures observing the same setbacks required for buildings in the zoning district wherein the automotive fueling station, service station, or repair center is located.

K. Removal of Underground Storage Tanks.

In the event that an automotive fueling station, service station, repair center, or public garage use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises in accordance with State and Federal regulations and statute.

SECTION 14.04 CONDOMINIUM DEVELOPMENT STANDARDS

A. Purpose and Scope.

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project.

2. The purpose of this Section is to ensure that the plans for developments within Butler Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It

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is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable Township ordinances and state and federal regulations.

B. Site Condominium Review and Approval Procedures (Step I Review).

Application for review and approval of a site condominium subdivision may be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Zoning Administrator, who shall distribute it to all Planning Commission members.
 - a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
 - b. A statement regarding the provision of sewer service and water supply.
2. During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
 - a. General requirements of this Section and other applicable provisions of this Ordinance.
 - b. Planned or anticipated sites of parks and recreation areas and other public uses.
 - c. Utility system capabilities.
 - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
 - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.

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- f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
 3. This review is intended for information purposes only and does not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
 4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
 - a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
 - b. Branch County Drain Commissioner
 - c. Branch County Road Commission
 - d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.
- C. **Site Condominium Review and Approval Procedures (Step II Review).**
 1. An application for preliminary review of a site condominium subdivision project shall be made to the Zoning Administrator along with the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:
 - a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.
 - b. The applicant's name, address, and phone number.
 - c. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.

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- d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
 - e. The legal description, address and tax parcel number of the property.
 - f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
 - g. Gross and net size of the parcel in acres.
 - h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
 - i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - j. A copy of any preliminary agreements which may be required before final plan approval is granted.
 - k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.
2. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for preliminary site condominium plan as required by this Ordinance.
 3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
 4. Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one copy to each member of the Planning Commission, and the Township Engineering or Planning Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
 5. The Zoning Administrator shall notify by mail, all the members of the Planning Commission, that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said

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hearing shall be given at least fifteen (15) days prior to the hearing in accordance with the noticing requirements stated in Section 10.04 of this Ordinance. The Zoning Administrator shall also give such notice of the meeting as required by the open Meetings Act. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
- b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

D. **Setbacks and Boundaries.** The setback requirements for condominium buildings shall be determined as follows:

1. Single Family Units.
 - a. The front yard setback shall be one-half ($\frac{1}{2}$) the approved or recorded street right of way, plus the current setback for the existing zoning district.
 - b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development shall meet the minimum required side yard setback within the zoning district.
 - c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.
2. Multiple family units shall meet the standards of the Medium Density Residential District (R-3).

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3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the by-laws and recorded as part of the master deed.

E. Common Elements.

After construction of a condominium unit, the undeveloped area of a unit shall become a common element.

F. Encroachment.

A condominium project shall not be constructed in a manner that intentionally creates an encroachment on adjacent properties or zoned districts.

G. Subdivision of Unit Sites.

Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the by-laws and recorded as part of the master deed.

H. Conformance with Subdivision Regulations.

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance or with the Township's Code of Ordinances.

I. Water and Waste Water.

The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and waste water disposal.

J. Expansion and Conversion.

Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.

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K. Master Deed.

The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

L. As-Built Plans and Occupancy.

Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Township, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Planning Commission. Fees for these reviews shall be established and adjusted by the Township Board of Trustees.

M. Final By-Laws, Consolidated Master Deed, and Site Plan.

Upon approval of the development, the applicant shall furnish the Township a copy of the by-laws and consolidated master deed. The development plan shall be provided on a sheet at least twenty-four (24) inches by thirty-six (36) inches.

N. Compliance with other Statutes and Ordinances.

All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

SECTION 14.05 SAW MILLS (AGRICULTURAL)

A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with the primarily agricultural and rural residential purposes of the district. These operations are intended to be temporary, portable, and/or small in processing capabilities. Sawmill operations may be permitted in agricultural zoning districts as special land uses subject to the following provisions:

- A. **Review Criteria.** Applications for new or expanded sawmills shall be submitted to the Planning Commission for review and evaluation based upon the criteria established herein. The use must be determined by the Planning Commission to be consistent and compatible with the general character of the immediate area and

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otherwise meet the requirements of Special Land Use approval as outlined in Chapter 19 of this Ordinance.

- B. **Site Plan Review.** A site plan in accordance with Chapter 12 of this Ordinance shall be prepared for review by the Planning Commission.
- C. **Prohibited Locations.** New and expanded milling operations shall not be permitted on any site that directly abuts any residential zoning district.
- D. **Minimum Lot Size.** No minimum lot size is required to seek approval for a special use permit to operate a sawmill in an agricultural zoning district. However, parcels of less than one (1) acre in size shall be reviewed so as to not allow the operation of a saw mill on sites not suitably sized to protect adjacent residential uses from nuisances created as a result of the milling operation.
- E. **Maximum Area of Operation.** The maximum area of land permitted for raw material (log) storage, milling operations, and processed waste (saw dust and cuttings) storage shall not exceed five (5) acres of contiguous land.
- F. **Setbacks.** The use of a portable chipper, stud mill, or other similar processing equipment as well as any storage or accessory buildings located on the site shall be set back at least fifty (50) feet from any property line.
- G. **Site Access & Parking.** Vehicle access to the site shall be located off of a public road suitable to accommodate both vehicular and truck traffic. Parking and loading areas shall be provided and shall be constructed of gravel or stone surface. One parking stall shall be required for each employee or worker on site. Sufficient turn around and loading areas for larger vehicles shall also be provided.
- H. **Employees.** The milling of timber products on site is intended for the general use and benefit of the property owner. No more than Six (6) employees related or unrelated to the property owner may be employed on site.
- I. **Hours of Operation.** The saw mill shall not operate outside of the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.
- J. **Transportation.** The loading and shipment of one (1) semi-tractor trailer (with a maximum of eleven (11) axles) or its equivalent shall be permitted per week of operation. In addition, the delivery of no more than three (3) shipment(s) of raw material (logs) in any given week shall be permitted. It is the intent of this requirement to limit nuisances created (i.e...noise, traffic, fumes, etc.) by this activity from impacting adjacent residential and agricultural land uses.

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- K. **Production.** No more than 5,000 board feet of processed lumber shall be produced in any one day.
- L. **Appearance.** All raw and processed material shall be stored in a neat and orderly manner. In addition, the property shall be kept free of junk, debris, garbage, and tall weeds and grasses. The outdoor storage of inoperable equipment, inoperable or unlicensed vehicles, and equipment or vehicle parts shall be strictly prohibited.

SECTION 14.06 WIRELESS COMMUNICATIONS FACILITY REQUIREMENTS

- A. **Intent.** Regulation of commercial wireless communication service towers is necessary to protect the public health, safety and welfare while meeting the communication needs of the public. The intent of the Ordinance is to minimize adverse visual effects of towers and to avoid interference with adjacent property while adequately serving the community.
- B. **Permitted as Principal Uses.** In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval as provided in Chapter 12 Site Plan Review, and also subject to the conditions set forth in subparagraph (D) below:
 - 1. Attached wireless communication facilities within all districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed;
 - 2. Colocation of an attached wireless communication facility which has been previously approved for colocation by the Planning Commission;
 - 3. Wireless communication facilities attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests; or
 - 4. Wireless communication facilities with monopole support structures of no more than one-hundred-fifty (150) feet in height within the I-1 and C-1 zoning districts.
- C. **Permitted as Special Land Uses.** Wireless communication facilities with monopole tower support of 150 ft. or less in the AG District shall be permitted as a special land use. Wireless communication facilities with monopole or lattice tower support structures with a height of greater than one-hundred-fifty (150) feet shall be permitted as special land uses or special accessory uses only in the C-1 and I-1 zoning district, subject to the standards of Chapter 19, Special Land Uses, except

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that they shall not be located within five-hundred (500) feet of any R-1 or R-2 zoning district, or within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited-access highway or other major thoroughfare. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

D. Permitted as Special Land Uses in Other Districts.

If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in subparagraphs (B) and (C) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subparagraphs (B) or (C) above, a wireless communication facility may be permitted as a special land use or a special accessory use within all other zoning districts, subject to the standards of Chapter 19 Special Land Uses, and further subject to the following conditions:

1. Such wireless communication facilities shall be located on a priority basis only on the following sites: a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites; or d) public park and other large permanent open space areas when compatible.
2. Wireless communication support structures in such locations shall be of an alternative or stealth design such as incorporation into a steeple, water tower, bell tower, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

C. Required Standards for Wireless Communication Facilities in All Districts.

1. Required Information.

- a. Site Plan. A site plan prepared in accordance with Chapter 12, Site Plan Review, also showing as-built drawings for all proposed attached wireless communication facilities and/or wireless communication support structures.
- b. Demonstration of Need. Demonstration of the need for the proposed wireless communication support structure due to a minimum of one of the following:

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- I. Proximity to an interstate or limited-access highway or major thoroughfare.
 - II. Proximity to areas of population concentration.
 - III. Proximity to commercial or industrial business centers.
 - IV. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
 - V. Other specific reasons.
- c. Service Area and Power. As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned.
- d. Map of Other Facilities Nearby. A map showing existing or proposed wireless communication facilities within Butler Township *and* Branch County, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If the information is on file with the Township, the applicant shall update as needed. A written request for confidentiality must be prominently stated by the applicant.
- e. Data on Other Facilities Nearby. For each location identified by the applicant/provider, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information:

The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.

- I. Evidence of property owner approvals.
- II. Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of

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the location would prohibit the applicant/provider from providing services.

- f. Fall Zone Certification. To determine the required setbacks, a State of Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall.

The fall zone or collapse distance as cited in the certification shall therefore be the minimum setback required. However, in the absence of an engineer's certification, the minimum setback shall be equal to the total height of the tower. Furthermore, in no case shall the minimum setback from a property line be less than seventy-five (75) feet.

- g. Description of Security for Removal. A financial security (Performance Guarantee) may be required for the wireless communication support structure to ensure removal and maintenance, in accordance with this Section of the Butler Township Zoning Code. The security shall be required at the discretion of the Planning Commission and shall be in the form of a performance bond or dedicated escrow account placed with the Township for coverage of stated purposes. The security shall be a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by Butler Township in securing removal.
- h. Data on FCC and FAA Approval. An application for a wireless communications installation shall have been first submitted for review and have been approved for such facility before the Federal Communications Commission, Michigan Aeronautics Commission and Federal Aviation Administration detailing technical parameters authorization for the facility shall be submitted to the Township as part of the Township's required application packet. Approved facilities shall be subject to all FAA, MAC and FCC requirements for placement, maintenance, and operation.
- i. All wireless communication facilities shall be located on a minimum of a one-half ($\frac{1}{2}$) acre parcel and shall have direct or deeded access to a public road right-of-way. Verification of said access shall be provided upon application for approval.

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- j. All existing vegetation shall be shown on the submitted site plan and shall be preserved during and after installation to the maximum extent possible. Furthermore, additional landscaping shall be required in accordance with the provisions of this Ordinance for the district in which it is located.
- k. All wireless communication sites shall be fenced with appropriate material with a minimum height of six (6) foot and a maximum height of eight (8) feet. All support structures, wires, and accessory buildings shall be located within the fenced area. The use of barbed wire, electric current or charge of electricity is strictly prohibited.
- l. Compatibility of Support Structures. Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access.
- m. Maximum Height. The maximum height of wireless communication support structures shall be the lesser of: a) two-hundred-fifty (250) feet; or b) the minimum height demonstrated to be necessary by the applicant; or c) such lower heights as required and approved by the Federal Aviation Administration. The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts.
- n. Setbacks from Non-Residential Districts. Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the required setbacks for the principal buildings for the zoning district in which the support structure is located. But in no case shall the required setback be less than seventy-five (75) feet.
- o. Variances. The Zoning Board of Appeals may grant variances for the setback of a wireless communication support structure to accommodate a change that would reduce its visual impact or to meet the required standards of Colocation. The Zoning Board of Appeal may also grant variances for the height of a support structure of up to

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fifty (50) feet only in cases where a variance would permit additional colocations.

- p. Compatibility of Accessory Structures. Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.
- q. Appearance of Support Structures. The color of wireless communication support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with its surroundings. The applicant shall be responsible for the maintenance of the wireless communication facility in a neat and orderly condition, as well as maintaining the safety of the site and structural integrity of any structures.
- r. Federal and State Requirements. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan. Structures shall be subject to any State and Federal regulations concerning nonionizing electromagnetic radiation. Furthermore, if more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the approval and permit for the structure shall be subject to revocation by the Township. The cost for testing and verification of compliance shall be borne by the operator of the antenna.
- s. Lighting. Lighting on a wireless communication facility shall be prohibited unless otherwise required by the Federal Aviation Administration or Michigan Aeronautics Commission. The applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.
- t. Colocation. All wireless communication support structures shall accommodate no more than six (6) attached wireless communication facilities. Support structures shall allow for future rearrangement of

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attached wireless communication facilities to accept other attached facilities mounted at varying heights.

- I. When Colocation is Not “Feasible. Wireless communication support structures shall not be approved unless the applicant documents that its attached wireless communication facilities cannot be feasibly colocated or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:
 - (i) The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by licensed engineer, and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - (ii) The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed engineer, and the interference cannot be prevented at a reasonable cost.
 - (iii) Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
 - (iv) Other unforeseen reasons that make it not feasible to locate the planned communications equipment upon an existing support structure or other structure.

- u. Determining Feasibility of Colocation. Colocation shall be deemed to be "feasible" when all of the following are met:
 - I. The applicant/provider will pay market rent or other market compensation for colocation.
 - II. The site is able to provide structural support, considering reasonable modification or replacement of a facility,

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- III. The colocation being considered is technically reasonable and will not result in unreasonable interference, given appropriate physical adjustments.
 - IV. The height of the structure necessary for colocation will not be increased beyond maximum height limits.
1. Refusal to Permit Colocation. If a party who owns or otherwise controls a wireless communication support structure shall fail or refuse to alter a structure to accommodate a feasible colocation, such facility shall thereafter be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
 2. Refusal to Colocate Constitutes Violation. If a party who owns or otherwise controls a facility shall fail or refuse to permit a feasible colocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of this Section of the Zoning Ordinance.
 3. New Structures Prohibited. Consequently such party or its agent(s) shall take responsibility for the violation, and shall be prohibited from receiving approval for a new support structure within Butler Township for a period of five (5) years from the date of the failure or refusal to permit the colocation.
 4. Variance from Colocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if, and to the limited extent, the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.
 5. Offer of Colocation Required. An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for colocation. The list of potential users shall be provided by Butler Township based on those entities who have requested approval of a wireless communication facility, current FCC license holders, and other entities requesting to be on the list. If, during a period of thirty (30) days after the notice letters are sent to potential users, a user requests, in writing, to colocate on the new support structure, the applicant

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shall accommodate the request(s), unless colocation is not feasible based on the criteria of this Section.

6. Removal. When a wireless communications facility has not been used for sixty (60) days, the party or its agent(s) shall notify the Township in writing of its discontinued use and shall initiate removal of all or parts of the wireless communications facility by the users and owners of the facility and owners of the property within ninety (90) days of notifying the Township. The removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.
 - a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the facility.
 - b. If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice sent by certified mail, Butler Township may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application was made for establishing the facility or, if necessary, through appropriate judicial remedies.
7. Radio Frequency Emission Standards. Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.
8. Effect of Approval.
 - a. Subject to subparagraph (II) below, final approval for a wireless communication support structure shall be effective for a period of six (6) months.

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- b. If construction of a wireless communication support structure is commenced within two (2) miles of the land upon which a facility has been approved, but upon which construction has not been commenced during the six (6) month period of effectiveness, the approval for the support structure that has not been commenced shall be void thirty (30) days following written notice from Butler Township of the commencement of the other support structure. Such voiding shall apply unless the applicant granted approval of the support structure which has not been commenced demonstrates that it would not be feasible to collocate on the support structure that has been newly commenced.

SECTION 14.07 MANUFACTURED HOUSING DEVELOPMENTS

A. Statement of Intent.

This section is intended to provide for the location and regulation of manufactured housing parks as an affordable housing alternative where appropriate and consistent with the general character of Butler Township. It is intended that manufactured housing parks be provided with necessary community services in a setting that provides a high quality of life for its residents. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be located in accordance with the following criteria:

1. In areas that are designated for manufactured housing parks as outlined in the Butler Township Master Plan.
2. On sites adjacent to existing manufactured housing parks and parcels zoned R-3 zoning classification.
3. On sites with direct vehicular access to a public thoroughfare or collector road.
4. In areas where sanitary sewer and potable water supply (either public or private systems) is available with sufficient capacity to serve the residents and to provide fire protection capabilities. Furthermore, the location of a manufactured housing park shall not result in exceeding the capacity or result in the diminished service of proper functioning community facilities and utility systems, including but not limited to the following: roads, sanitary sewers, water, storm drainage, police and fire protection, and the public educational system.

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5. On sites outside of a designated floodway.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured housing parks. When regulations in this Section exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured housing parks meet the development and site plan standards established by this Section for other comparable residential development and to promote the health, safety and welfare of the Township's residents.

These specific standards reflect the nature of Butler Township in contrast with some other areas of Michigan where the universal rules of the Manufactured Housing Commission may be appropriate. These standards encourage development which compliments and protects the investment on adjacent properties, and promotes preservation of important natural features.

Since the characteristics and impacts of a manufactured housing park typically simulate those of multiple-family residential developments, and because they typically are served by private streets and utility systems which interrupts and intercepts the continuity of the local street and utility systems, manufactured housing parks are not considered compatible with other types of single-family neighborhoods. Therefore, manufactured housing parks are intended to serve as a transitional use between residential and nonresidential districts, similar to the multiple family districts.

B. Development Standards and Requirements.

1. Preliminary Plan Review. Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the applicant and Planning Commission shall follow the procedures and requirements in Chapter 12, Site Plan Review, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the Township officially receives the plan.

Applicants may request to meet with Township officials, including any consultants designated by the Township Board of Trustees, to preliminarily

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review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by Township officials, staff or consultants at such conferences shall constitute approval of any application.

2. Minimum Requirements. Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements.
3. General Authority. Manufactured housing parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured housing parks. Application for permit to construct a manufactured housing park shall be submitted to the Michigan Bureau of Construction Codes. The Department of Consumer and Industry Services is the agency charged with licensing of manufactured housing parks. Preparation of the application, support data, and local agency review of the above mentioned materials shall conform to the requirements of Act 96.
4. Codes. All structures and utilities to be constructed, altered, or repaired in a manufactured housing parks shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured housing unit built prior to June 15, 1976 which otherwise meets HUD certification requirements and standards for construction shall be permitted. All structures and improvements to be constructed or made under the County Building Code shall have a building permit issued therefore by the County Building Inspector prior to construction.
5. Parcel Size. The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.
6. Site Size. The manufactured housing parks shall be developed with sites having a minimum size of five-thousand-five-hundred (5,500) square feet per manufactured housing unit. This square foot minimum for any one site may be reduced twenty percent (20%) provided that the individual site shall be

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equal to at least four-thousand-four-hundred (4,400) square feet. For each square foot of land gained through the reduction of a site below the required standard, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required by this Section and under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code. However, in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

7. Dimensional Requirements. Manufactured housing units shall comply with the following minimum distances and setbacks:
- a. Twenty (20) feet from any part of adjacent manufactured housing units.
 - b. Ten (10) feet from any on-site parking space of an adjacent manufactured housing unit site.
 - c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured housing unit.
 - d. Fifty (50) feet from any permanent building.
 - e. One hundred (100) feet from any baseball, softball, or similar recreational field.
 - f. Fifteen (15) feet from the edge of an internal road.
 - g. Seven (7) feet from any parking bay.
 - h. Seven (7) feet from a common pedestrian walkway.
 - i. All manufactured housing units shall be set back not less than twenty-five (25) feet from any park boundary line, including the existing and future rights-of-way lines of abutting streets and highways. Accessory buildings shall meet the setback requirements as established by this Ordinance for residential districts.
 - j. Forty (40) feet from the edge of any railroad right-of-way.

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8. Building Height. Buildings in the MHP district shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
9. Roads. Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:
 - a. Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
 - b. One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
 - c. The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental Quality standards.
 - d. Cul-de-sacs, where proposed, shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units may be served by a single means of access. A dead end road shall terminate with an adequate turning area. A blunt-end road is prohibited.
 - e. Adequate sight distance shall be provided at all intersections.
 - f. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.

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- g. All roads shall be clearly marked with appropriate identification and traffic control signs. The name of any streets or roads shall be approved by the Branch County Land Resource Center.
- h. All roads shall be hard-surfaced and may be constructed with curbs and gutters.

10. Parking.

- a. All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
- b. In addition, a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking located convenient to the area served.
- c. Off-street parking in accordance with Chapter 15 of this Ordinance shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
- d. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within an enclosed building.
- e. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the site plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage area shall be surfaced with gravel, asphalt or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.

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11. Sidewalks. Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of collector roads in the manufactured housing park. In addition, a five (5) foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing park fronts. Such sidewalk shall be located within the road right-of-way, one foot off of the right-of-way line.

12. Accessory Buildings and Facilities.
 - a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted Preliminary Plan for approval.
 - b. Site-built structures within a manufactured housing park shall be constructed in compliance with the Branch County Building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the Branch County Building Codes.
 - c. No personal property shall be stored outside or under any manufactured home. Storage structures (e.g., sheds, garages, etc.) may be used to store personal property on site. Storage sheds need not be supplied by the owner or operate of the manufactured housing park.
 - d. Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
 - e. Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.

13. Open Space. Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:

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- a. A minimum of two percent (2%) of the park's gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, provided that a minimum of twenty-five-thousand (25,000) square feet of contiguous open space.
- b. Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five percent (25%) of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.

14. Landscaping and Screening.

- a. Perimeter Screening. All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot wall or a densely planted landscaped greenbelt. In addition a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
 - I. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
 - II. If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- b. Landscaping Adjacent to Rights-of-Way. A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with

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slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Butler Township:

<u>Type</u>	<u>Requirements</u>
Deciduous street tree (e.g., Red or Norway Maple, Linden, Ash)	1 per 40 lineal feet of road frontage
Deciduous or evergreen shrubs	1 per 3 lineal feet of road frontage

- c. Site Landscaping. A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
 - d. Parking Lot Landscaping. Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.
15. Canopies. Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sun room or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.
16. Waste Receptacles. If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:
- a. Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty (150) feet of each manufactured housing unit, unless curb-side collection is provided.

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- b. Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.
 - c. Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.
17. Signs.
- a. Each manufactured housing park shall be permitted either:
 - I. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
 - II. One (1) sign which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.
 - b. Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.
18. Water and Sewer Service. All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Branch County Health Department and the Michigan Department of Public Health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
19. Storm Drainage. All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable

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local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.

20. Underground Wiring and Utilities. All local distribution lines for franchised utilities, including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a Section or Quarter Section Line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.
21. Fuel Oil and Gas. Any fuel oil and gas storage shall be located in underground tanks, at a safe distance from all manufactured housing sites. All fuel lines leading to manufactured housing sites shall be underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.
22. School Bus Stops. School bus stops shall be located in an area that is acceptable to the local school district and the manufactured housing park developer.
23. Mailbox Clusters. The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.
24. Manufactured Housing Unit Sales. The business of selling new or used manufactured housing as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.
25. Prohibitions. A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of

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model manufactured homes on licensed sites in a manufactured home community for sale or temporary sales office purposes.

26. Operational Requirements.

- a. Permits. A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Zoning Administrator shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of Consumer and Industry Services. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall require a building permit prior to construction and a Certificate of Occupancy prior to use.
- b. Violations. Whenever, upon inspection of any manufactured housing park, the Zoning Administrator finds that conditions or practices exist which violate provisions of this Section or other regulations referenced herein, the Zoning Administrator shall give notice in writing by certified mail to the Director of Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.
- c. Inspections. The Zoning Administrator or other authorized Township agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Section or other regulations referenced herein.

CHAPTER 15

PARKING AND LOADING STANDARDS

SECTION 15.01 OFF-STREET PARKING REQUIRED

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

SECTION 15.02 GENERAL REQUIREMENTS

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

- A. **Off-Street Parking Spaces for One and Two-Family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve subject to the provisions of Section 16.27 (accessory buildings and uses). No parking shall be permitted in the required front yard except on a driveway which leads to an approved parking space.
- B. **Off-Street Parking for Multiple-Family and Non-Residential Uses.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- C. **Existing Parking Facilities.** An area designated as required off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- D. **Joint Use of Facilities.** Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual

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requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.

- E. **Non-overlapping Operating Hours.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Section 15.03.
- F. **Restriction of Parking on Private Property.** It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
- G. **Duration.** Except when land is used as permitted storage space in direct connection with a business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- H. **Use of Loading Space.** Required loading spaces shall not be counted or used for required parking.
- I. **Gross and Usable Floor Area.** For the purpose of computing the number of parking spaces required, the definitions under Gross and Usable Floor Area in Chapter 3, pages 3-17 and 3-18 shall apply.
- J. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
- K. **Uses Not Specified.** For those uses not specifically mentioned under Section 15.03, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

SECTION 15.03 TABLE OF OFF-STREET PARKING REQUIREMENTS

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

Use	Spaces Per Unit of Measure
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- 1. Residential

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| a. Residential, One-Family and Two-Family Dwelling, including mobile homes. | Two (2) for each dwelling unit. |
| b. Residential, Multiple-Family | One (1) for each efficiency unit, one and one-half (1-1/2) for each one (1) bedroom unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units. |
| c. Residential, Multiple-Family Senior Citizen Housing | One (1) for each dwelling unit plus one (1) for each employee. If units revert to general occupancy, then Section 15.03(1)b above applies. |
| d. Boarding, Rooming, Lodging | One (1) parking space for each, and/or occupancy unit plus one (1), parking space for each employee on the largest employment shift. |

2. Institutional

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| a. Churches, Temples or Synagogues | One (1) for each three (3) seats, based on maximum seating capacity in the main unit of worship. |
| b. Hospitals | One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hours shift in which the greatest number of employees are on duty. |
| c. Foster Care Group Homes, Homes for the Aged, Convalescent Homes and Children Homes | One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift. |
| d. Elementary and Junior High Schools | One (1) for each one (1) teacher, employee or administrator, plus one (1) per classroom for visitor use in addition to the requirements for the auditorium, if provided. |
| e. Senior High Schools | One (1) for each teacher, employee or administrator, one (1) for each ten (10) students, and one (1) per classroom for visitor use, in addition to the requirements for the auditorium and stadium, if provided. |
| f. Private Clubs or Lodge Halls | One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes. |
| g. Fraternity or sorority | One (1) for each five (5) permitted active members, plus one (1) per employee on the largest employment shift. |
| h. Boat Launch, Private or | Twenty-four (24) combined vehicle |

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| Public | and boat trailer spaces for each one (1) individual boat ramp. |
| i. Theaters and Auditoriums | One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift. |
| j. Libraries, Museums, Cultural Facilities | One (1) for each four hundred (400) square feet of gross floor area. |
| k. Nursery, Day Care, or Child Care Centers | One for each three hundred fifty (350) square feet of usable floor space. |

3. Recreational

For each use below, additional spaces shall also be provided as required for restaurants, bars, clubhouses, pro shops, or other affiliated facilities.

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|-----------------------------------|--|
| a. Archery Facilities | One (1) for each two targets. |
| b. Softball, Baseball Fields | Twenty-five (25) for each playing field. |
| c. Bowling Establishments | Six (6) for each lane. |
| d. Dance Halls, Health Spas, | One (1) for each two (2) persons who , may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift. |
| e. Football and Soccer Fields | Thirty (30) for each field. |
| f. Golf Course, Public or Private | Five (5) for each golf hole, plus one for each employee on the largest employment shift. |
| g. Golf Course, Miniature | Two (2) for each golf hole, plus one (1) for each employee in the largest employment shift. |
| h. Golf Driving Range | One (1) for each tee. |
| i. Stadium, Sports Arena, or | One (1) for each three (3) seats or similar place of outdoor six (6) feet of benches, plus one assembly (1) for each employee on the largest employment shift. |
| j. Swimming Pools | One (1) for each four (4) persons who may be legally admitted at one time based on occupancy load established by local codes, plus one (1) for each employee on the largest employment shift. |

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| k. | Tennis Clubs and Court-Type Uses | One (1) for each one (1) person admitted based on the capacity of the courts, plus (1) for each employee in the largest employment shift. |
| l. | Billiards, Skate Rinks | One (1) for each two (2) persons who , may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift. |
| 4. <u>Business and Commercial</u> | | |
| a. | Animal Hospitals | One (1) for each four hundred (400) square feet of usable floor area, plus one (1) for each employee in the largest employment shift. |
| b. | Automobile Service Stations | Two (2) for each lubrication stall, rack or pit; and one (1) for each employee on the largest employment shift.

For quick oil change facilities, one (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to a service station shall be provided as required by Section 1505. |
| c. | Auto Wash | One (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to the auto wash shall be provided as required by Section 15.05. |
| d. | Beauty Parlor or Barber Shop | Three (3) spaces for each of the first two(2) beauty or barber chairs, and one and one-half (1-1/2) spaces for each additional chair. |
| e. | Drive-In Establishments | One (1) for each thirty (30) square feet of usable floor area, with a minimum of twenty-five (25) parking spaces, plus eight (8) stacking spaces for each drive-in or drive-thru transaction station as required by Section 15.05. |
| f. | Establishments for Sale and Premises of Beverages, Food or Refreshments | One (1) for each fifty (50) square Consumption on the feet of usable floor area. |
| g. | Furniture and Appliance, Household Equipment, Repair Shops, Showroom of a Plumber, | One (1) for each eight hundred (800) square feet of usable floor area, exclusive of the floor area occupied |

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Decorator, Electrician or Trade, Shoe Repair, and Other Similar Uses	in processing or manufacturing for which requirements see industrial establishments below. One (1) additional space shall be provided for each one (1) person employed therein in the largest employment shift.	Similar
h. Ice Cream Parlors	One (1) for each seventy-five (75) square feet of gross floor area, with a minimum of eight (8) spaces.	
i. Laundromats and Coin Operated Dry Cleaners	One (1) for each two (2) washing machines.	
j. Mortuary Establishments	One (1) for each fifty (50) square feet of assembly room parlor, and slumber room.	
k. Motel, Hotel or Other Lodging Establishments	One (1) for each one (1) occupancy Commercial unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.	
l. Motor Vehicle Sales and Service Establishments, Trailer Sales and Rental, Boat Showrooms	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift.	
m. Open Air Business	One (1) for each six hundred (600) square feet of lot area used in open air business.	
n. Restaurant, Carry-Out	One (1) for each one hundred (100) square feet of gross floor area.	
o. Roadside Stands	Six (6) for each establishment.	
p. Retail Stores, Except as Otherwise Specified Herein	One (1) for each one hundred and fifty (150) square feet of usable floor area.	
q. Shopping Center/Clustered Commercial	Four (4) spaces per one thousand (1,000) square feet of gross floor area.	
5. <u>Offices</u>		
a. Banks, Savings and Loan Offices	One (1) for each one hundred (100) square feet of usable floor area, and four (4) stacking spaces for each drive-in or drive-thru transaction station as required by Section 15.05.	
b. Business Offices or Professional Offices, except as indicated in the following	One (1) for each two hundred (200) square feet of usable floor area.	

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item (c)

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| c. Medical or Dental Clinics, Professional Offices of Doctors, Dentists, or Similar Professions | One (1) for each one hundred (100) square feet of usable floor area in waiting rooms and one (1) for each examining room, dental chair or similar use area. |
| d. Offices of local, state or federal government or non-profit agencies. | One (1) for each two hundred (200) square feet of usable floor area. |

6. Industrial

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| a. Industrial or Research Establishments | Five (5) plus one (1) for every one (1) employee in the largest working shift. Parking spaces on the site shall be provided for all construction workers during the period of plant construction. |
| b. Wholesale or Warehouse Establishments | Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every one thousand seven hundred (1,700) square feet of gross floor area, whichever is greater. |

SECTION 15.04 OFF-STREET PARKING FOR PHYSICALLY HANDICAPPED PERSONS

Off-street parking facilities as required under this ordinance shall include, in accordance with the following table and identified by signs, parking spaces which are reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than twelve (12) feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

	Required Number of
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Total Parking in Lot	Handicapped Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20 plus 1 for each 100 spaces over 1,000

SECTION 15.05 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.

- B. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service, shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.

- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

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SECTION 15.06 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE

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

- A. **Review and Approval Requirements.** In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Chapter 12.01. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the Township Planning Commission for review and approval.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

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

Parking Patterns	Lane Width	Parking Space Width	Parking Space Length	Total width of one tier of stalls and maneuvering lane	Total width of two tiers of stalls and maneuvering lane
0°(Parallel Parking)	12 ft.	8 ft.	23 ft.	20 ft. (one way) 32 ft. (two way)	28 ft. (one way) 40 ft. (two way)
30° to 53°	12 ft.	8 ft.	20 ft.	32 ft.	52 ft.
54° to 74°	15 ft.	8 ft.	20 ft.	36 ft.	55 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

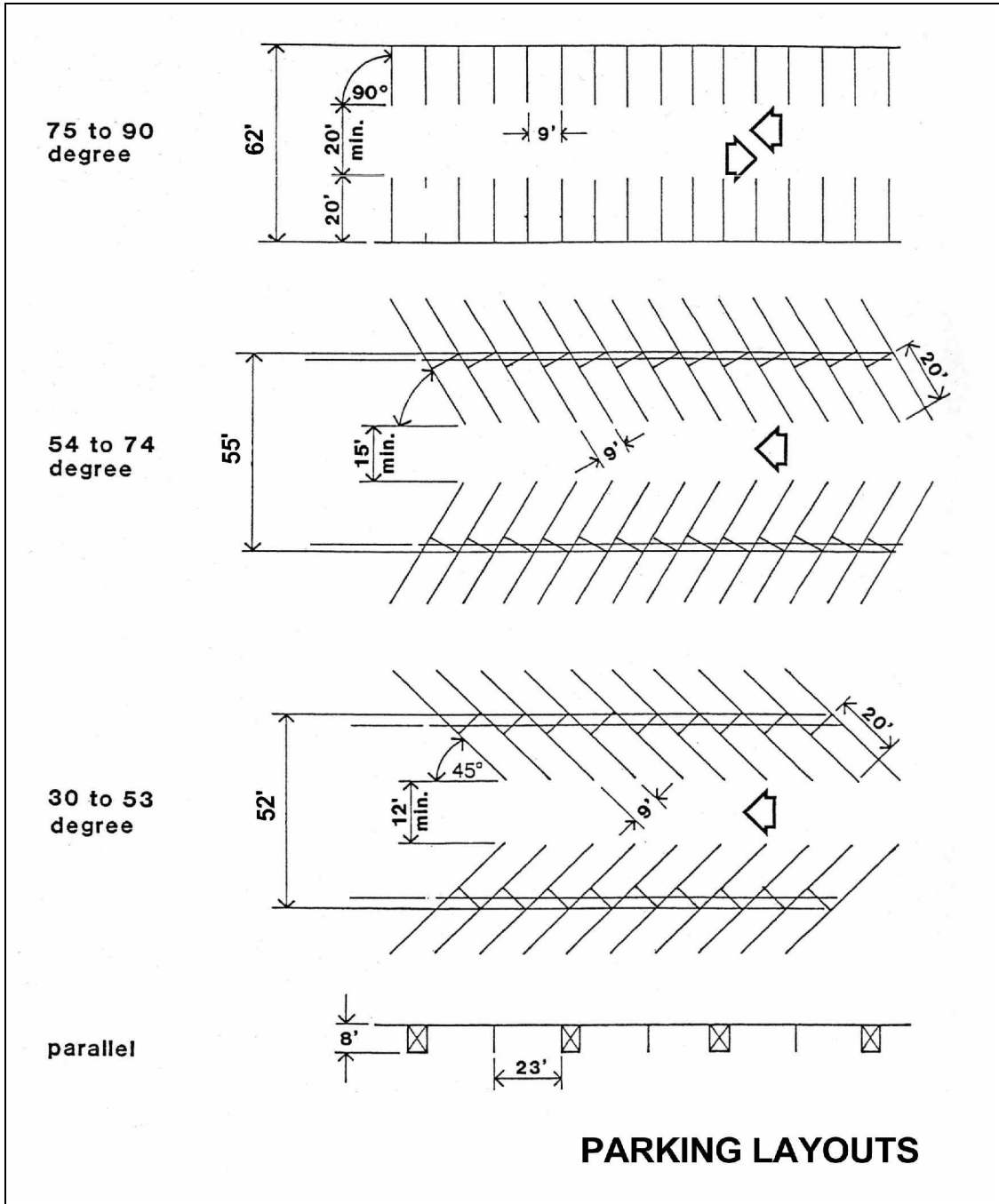
- C. **Access.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.

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- D. **Ingress and Egress.** Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.
- E. **Surfacing and Drainage.** The entire parking area, including parking spaces and maneuvering lanes, shall have an asphaltic or concrete surface; and shall be graded and drained so as to dispose of surface water which might accumulate on such area. No surface water from such parking area shall be permitted to drain onto adjoining private property or across a public sidewalk. Parking lots shall be continuously maintained with a hard, smooth, dust-proof surface at all times.
- F. **Bumper Stops.** Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.
- In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.
- G. **Striping.** All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.
- H. **Screening.** All off-street parking areas, except those serving single and two-family residences, shall be screened in accordance with the provisions set forth in Chapter 18.
- I. **Parking Setbacks.** All parking setbacks as required elsewhere by this Ordinance shall be maintained.
- J. **Landscaping.** Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns, deciduous shrubs, evergreen plant material, and ornamental trees, in accordance with Chapter 18. All such landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance. All landscaping shall be protected by concrete or asphalt curbing.
- K. **Lighting.** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-ways.

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- L. **Signs.** Accessory directional signs shall be permitted in parking areas in accordance to Chapter 11.
- M. **Buildings.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- N. **Additional Requirements.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as necessary by the Planning Commission for the protections of abutting properties in a residential district.
- O. **Delay in Construction.** In instances where the Board of Zoning Appeals determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, but the Board of Zoning Appeals shall require a cash or surety bond in the anticipated amount of the parking lot construction costs.



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SECTION 15.07 OFF-STREET LOADING SPACE REQUIREMENTS.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site.

A. Such spaces shall be provided as follows:

Gross Floor Area (In Square Feet)	Loading and Unloading Spaces	
	10'x 25' space	10'x 50' space
0 - 1,999	NA	NA
2,000 - 4,999	1	NA
5,000 - 19,999	NA	1
20,000 - 49,999	NA	2
50,000 - 79,999	NA	3
80,000 - 99,999	NA	4
100,000 - 149,999	NA	5
150,000 and over	NA	5*

*One additional space for each fifty thousand (50,000) square feet of floor area in excess of one hundred fifty thousand (150,000) square feet.

- B. All loading spaces shall be located in the non-required rear yard and meet all minimum yard setback requirements for the district in which it is located in accordance with this Ordinance.
- C. Loading space areas shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- D. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- E. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.

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- F. No loading space shall be located closer than one hundred (100) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.

- G. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
 - 1. Each business served shall have direct access to the central loading area without crossing streets or alleys.

 - 2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.

 - 3. No building served shall be more than 500 feet from the central loading area.

- H. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

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CHAPTER 16

GENERAL PROVISIONS & EXCEPTIONS

SECTION 16.01 INTENT

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

SECTION 16.02 GENERAL EXCEPTIONS

- A. **Essential Services.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this Ordinance. The Zoning Board of Appeals may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.

- B. **Voting Place.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

SECTION 16.03 EASEMENTS

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

SECTION 16.04 GRADES, ELEVATION DIFFERENTIALS, AND RETAINING WALLS

- A. The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties.

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- B. Retaining walls in excess of four (4) feet in height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.

SECTION 16.05 OBSTRUCTIONS TO VISION ON CORNER LOTS

No structure, wall, fence, shrubbery, **parked vehicle, stored material**, or trees shall be placed, erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

SECTION 16.06 FENCE, WALL AND PRIVACY SCREEN REGULATIONS

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

- A. The erection, construction or alteration of any fence, wall or privacy screen as defined herein, shall be constructed in accordance with all Township and County codes. Prior to the erection, construction or alteration of any fence, plans shall be provided by the property owner.
- B. Fences shall not be taller than four (4) feet in a required front yard nor higher than six (6) feet in a required side or rear yard for parcels in the R-2 or R-3 zoning districts.
- C. A six (6) foot fence shall surround all playgrounds associated with a children's day care facility.
- D. Fences with barbed or concertina wire or electrical current are prohibited in the R-2 and R-3 zoning districts.
- E. A four (4) foot fence shall surround all below ground swimming pools.
- F. Except as required for swimming pools, parcels located in the AG District shall be exempt from all fence height and use restrictions.
- G. Natural or tree lined fences shall not obstruct air flow, view shed or required line-of-sight distances.

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SECTION 16.07 OFF-STREET PARKING REQUIREMENTS

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as prescribed in Chapter 15 of this Ordinance.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

SECTION 16.08 STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED

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

SECTION 16.09 SOIL EXCAVATION OR FILLING

- A. The deposit or burying of any man made materials such as scrap iron, appliances, tires, and other “junk” as defined in this ordinance anywhere in Butler Township which is not biodegradable is expressly prohibited with the exception of concrete and masonry not containing re-rod or contaminated material. The burying of “garbage” as defined in this ordinance when deemed to be biodegradable (such as plant and animal wastes) shall be permitted when conducted in accordance with County, State, and Federal laws.
- B. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Township, and a zoning permit has been issued for said development.
- C. Excavation which exceeds 100 cubic yards or disturbs an area of more than 10,000 square feet of the surface of the earth (to a depth greater than 2 feet below grade) in any 10 year period shall require site plan approval plus approval of all final and interim grades, haul routes, a restoration plan and schedule, financial guarantees of performance, hours of operation (including blasting) and a schedule of improvements to preserve and protect public roads, bridges and culverts and minimize negative impacts on township residents and occupants.

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SECTION 16.10 COMMERCIAL VEHICLES IN RESIDENTIAL AREAS

- A. **Purpose.** The purpose of restrictions on commercial vehicles (used for business purposes) is to preserve the health, safety and general welfare of persons and property in areas designed and utilized for single family residential development. The parking of large commercial vehicles (including semi-tractor trailers) are frequently impediments to the ingress and egress of emergency vehicles and equipment, and are frequently unsafe when operated on residential streets. The noise, exhaust emissions and appearance of such commercial vehicles tend to impair the health, safety and general welfare of the people of the Township.
- B. **Residential Parking Prohibited.** No commercial vehicle over one and a half tons in weight shall be parked in a R-2 or R-3 zoned area. Provided however, this provision shall not apply to commercial vehicles temporarily parked in a residential area in conjunction with the maintenance or service to a residential property.
- C. **Presumption of Ownership.** In any proceeding for violation of any parking provision of this section, the person to whom a commercial vehicle is registered, as determined from the registration plate displayed on said motor vehicle, shall be presumed in evidence to be the person who committed the violation charged.

SECTION 16.11 OUTDOOR STORAGE OF RECREATION AND OTHER VEHICLES AND EQUIPMENT IN RESIDENTIAL AND AGRICULTURAL DISTRICTS

The outdoor storage or parking of any airplane, antique or racing automobile, boat, boat hoist or dock, float, trailer, trailer coach, camping trailer, motorized home, vacant or unused mobile home, dismountable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature (not including typical farm equipment), shall be prohibited for a period greater than forty-eight (48) hours in all residential and agricultural districts, except where the following minimum conditions are met:

- A. All such vehicles or equipment shall be placed within a completely enclosed building **or** located behind the required front building line (rear or side yard), but no closer than five (5) feet from the rear or side property line.
- B. Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant. Vehicles may not be stored on vacant lots, parcels, or property.
- C. Trailer coaches, motor homes and other vehicles or equipment designed or adaptable for sleeping purposes may be utilized for up to one hundred and eighty (180) days during the course of one year for visitors. They shall otherwise remain unoccupied and shall not be connected to sanitary sewer facilities, water or gas.

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- D. Such vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of said uses (recreational vehicles and equipment) is prohibited. This provision shall not pertain to farm implements, machinery and equipment utilized for permitted agricultural operations.
- E. The storage of vacant mobile homes in any district shall be prohibited; with the exception of approved and permitted sales and service facilities located in a designated commercial district.
- F. No more than two inoperable passenger vehicles may be kept on any lot or parcel in any zoning district. The vehicles shall be licensed to the owner of the property on which the vehicles are located. The vehicles must be stored in the rear or side yard of the parcel and screened by landscaping, privacy fencing or structures from adjacent properties and from view of any public road.

SECTION 16.12 KEEPING OF FARM ANIMALS AND OTHER ANIMALS

The keeping, raising, or breeding of animals, poultry or livestock, including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets) outside of the AG or R-1 zoning districts shall be prohibited, except as may be permitted by Special Use Permit in the R-2 and R-3 zoning districts and under conditions of public safety, comfort, convenience and quiet use of property imposed by the Township Planning Commission.

SECTION 16.13 DUMPSTERS OR OUTDOOR TRASH RECEPTACLES

Any new or altered use (except agricultural and farming operations) which requires site plan review under Chapter 12 and has an outdoor trash storage area shall comply with the following requirements:

- A. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
- B. A decorative masonry wall or wooden privacy fence of six (6) feet in height shall enclose three (3) sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. Screening gates may be required by the Planning Commission when deemed necessary to obscure a trash receptacle from view from a public right-of-way. The surface under any such storage area shall be constructed of concrete.
- C. In no instance shall any such refuse be visible above the required enclosure.

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- D. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- E. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

SECTION 16.14 SWIMMING POOL REGULATIONS

- A. **Permit Application.** It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit thereof. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such swimming pool, a detailed plan and specifications for such swimming pool, and full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.
- B. **Location.** Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.
- C. **Fencing.** All below ground swimming pools shall be completely enclosed by a fence not less than four (4) feet in height. Above ground pools shall have locking gates, removal ladders, or a fence not less than four (4) feet in height to restrict unauthorized access.

SECTION 16.15 PERFORMANCE STANDARDS.

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

A. Vibration

- 1. Permitted Vibration. Vibration is the oscillatory motion of a solid body. Machines or operations which cause vibration may be permitted in industrial districts, provided that: No operation shall generate any ground- or structure-borne vibrational motion that is perceptible to the human sense of

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touch beyond the property line of the site on which the operation is located, and

2. Permitted Exemptions. Vibrations resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM. shall be exempt from the maximum permitted vibration levels in Subsection 3, provided that such activity occurs in a legally- accepted manner.
- B. **Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.** The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.
- C. **Odor.** Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard to adjoining property, or which could be detrimental to human, plant, or animal life. This requirement shall not pertain to lawfully operated farming practices which are being conducted in accordance with state GAMP requirements and as otherwise protected by the state Right To Farm act.
- D. **Glare and Heat.** Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half ($\frac{1}{2}$) of one (1) footcandle when measured at any point along the property line of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
- E. **Sewage Wastes and Water Pollution.** Sewage disposal and water pollution shall be subject to the standards and regulations established by federal, state, county and local regulatory agencies, including the Michigan Department of Public Health, the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality, the Branch County Health Department, and the U. S. Environmental Protection Agency.
- F. **Gases.** The escape of or emission of any gas which is injurious or destructive to life or property, or which is explosive, is prohibited. Gaseous emissions shall be subject

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to regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, the Federal Clean Air Act of 1963, as amended, and any other applicable state or federal regulations.

- G. **Electromagnetic Radiation and Radio Transmission.** Electronic equipment required in an industrial, commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.
- H. **Radioactive Materials.** Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by federal agencies which have jurisdiction.

SECTION 16.16 HOME OCCUPATIONS

A home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions:

- A. No more than two (2) persons total (including the members of the family residing on the premises) shall be engaged in such occupation.
- B. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than one-quarter (25%) of the floor area of the floor on which the occupation is being conducted may be used for the purposes of the home occupation or for storage purposes in conjunction with the home occupation.
- C. A home occupation shall be conducted completely within the dwelling unit or permitted accessory building. A home occupation conducted within an accessory building shall not occupy more than 50% of said building. Accessory buildings in excess of 1,200 square feet shall be limited to 600 square feet in which to conduct the permitted home occupation.
- D. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall be no external or internal alterations not customary in residential areas including the expansion of off-street parking areas in excess of residential standards.
- E. A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communications interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.

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- F. Signs not customarily found in residential areas shall be prohibited, however that one (1) non-illuminated name plate, not more than four (4) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises in the R-1 and R-2 districts. Freestanding signs not in excess of six (6) square feet in area may be placed on private property in the AG district as an alternative but not in addition to a sign placed on the dwelling.
- G. There shall be no deliveries to or from a home occupation with a vehicle larger than permitted by the State of Michigan.
- H. The hours of operation for a permitted home occupation shall be subject to Planning Commission review and shall be set in accordance with the provisions of this Ordinance based upon the type of use proposed.
- I. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.

SECTION 16.17 TEMPORARY AND PORTABLE BUILDINGS, USES, & STRUCTURES

- A. A temporary structure may be authorized by the Zoning Administrator for temporary residence for the applicant during the period when a structure conforming to the provisions of this Ordinance, is in the process of being built on the same lot, subject to the following provisions:
 - 1. The location of the temporary structure shall conform to all yard and setback limitations of the zoning district.
 - 2. The use of the structure and premises shall not adversely effect surrounding properties.
 - 3. The use of such temporary structures shall be limited to twelve (12) months, beginning with the date of issuance of the permit. The permit may be subject for one renewal provided that significant progress has made on the construction of the permanent structure.
 - 4. The use shall comply with all applicable sanitary codes and building restrictions of the Township and Branch County.
 - 5. There shall be verifiable evidence of continuing construction of the permitted structure.
- B. Temporary sales of farm produce and similar products, when a structure is erected, may be permitted provided they comply with the following standards and upon issuance of a zoning compliance permit:

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1. The sale of farm produce with permanent structures which are less than 100 square feet are permitted only in the AG District and unplatted properties in the R-1 and R-2 Districts.
 2. Permanent structures which are larger than 100 square feet for farm produce sales may be permitted only upon approval of a special use permit by the Planning Commission in the AG District.
 3. All permanent structures shall comply with the four standards outlined in Subsection (c) below.
- C. Temporary sales of farm produce and similar products, when no structures are erected, may be permitted in all districts but I-1 and C-1, provided they comply with the following standards and upon issuance of a zoning compliance permit:
1. The location of the site shall be:
 - a. Off the road right-of-way at least 25 feet.
 - b. If located on a corner, the entrance/exit should be off of the side road.
 2. There shall be no permanent structures: all fixtures (signs, tables, chairs, produce, boxes, etc.) are to be removed at the end of each day--nothing is to be left on the site.
 3. A maximum of two signs will be permitted. Signs shall be off the road right-of-way and located on the applicant's property.
 4. The operator shall comply with all state laws regarding public health standards; sales and business tax regulations.
- D. Structures erected for ice fishing and hunting purposes less than 100 sq. ft. in size are expressly permitted in Butler Township and are exempt from the provisions of this Ordinance.
- E. The office and storage trailers of building contractors used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be setback at least ten (10) feet from all property lines and be removed within fifteen (15) days after the certificate of occupancy has been granted for the building under construction on the property.
- F. Temporary Housing: A temporary dwelling may be placed on an AG Agricultural District or residentially zoned lot in excess of two (2) acres for temporary use by a member of the immediate family (grandmother, grandfather, mother, father, son or daughter) subject to the restrictions and conditions outlined herein:

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1. The temporary dwelling shall be connected to an approved water and septic system as required by the Branch County Health Department.
2. Minimum road frontage, setback and yard requirements as specified by the Planning Commission shall be maintained.
3. A performance guarantee for the eventual removal of the temporary dwelling unit, site restoration and other associated costs may be required by the Planning Commission in accordance with Chapter 19 of this Ordinance.
4. Other conditions as may be reasonably applied by the Planning Commission to appropriately assure the compliance with the provisions of this Ordinance.
5. Upon review and approval of the planning commission a special use permit will be issued.

SECTION 16.18 BUILDING PERMITS ISSUED PRIOR TO EFFECTIVE DATE

Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said building permit was granted.

A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

SECTION 16.19 RESTORATION OF UNSAFE BUILDINGS

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

SECTION 16.20 MOVING OF BUILDINGS

Any building or structure (*except agricultural buildings*) that has been wholly or partially erected on any premises located within the Township shall not be moved to and be placed upon any other premises in the Township until a zoning permit for such removal has been

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secured according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or County, may be charge to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a zoning permit shall be issued for the moving of such a building or structure.

SECTION 16.21 EXCEPTIONS TO AREA AND WIDTH REQUIREMENTS

- A. **Recorded Lots.** Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this Section, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.
- B. **Lack of Public Utilities.** In areas unserved by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance may be increased to include any additional area deemed necessary by the appropriate Branch County District Health Department requirements to insure safe water supply and/or adequate sewage disposal.

SECTION 16.22 NUMBER OF BUILDINGS ON A LOT

Every building hereinafter erected or structurally altered shall be located on a lot and there shall be not more than one (1) main building on one (1) lot unless otherwise allowed in this Ordinance. Exceptions to the aforementioned requirement include dwellings permitted as a result of a Planned Unit Development (PUD) project and temporary structures meeting the requirements set for in this Chapter.

SECTION 16.23 ILLEGAL DWELLINGS

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a

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watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

SECTION 16.24 OTHER PROJECTIONS INTO YARDS

- A. **Cornice, Sill, Chimney, or Fireplace.** A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.
- B. **Fire Escape.** A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.
- C. **Open Stairway or Balcony** An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required yard not more than six (6) feet and such balcony may extend into a required front yard not more than six (6) feet.
- D. **Porch, Open.** An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than eight (8) feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five (5) feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

SECTION 16.25 ACCESS THROUGH YARDS

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Furthermore, any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

SECTION 16.26 ACCESSORY BUILDINGS AND STRUCTURES

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

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.

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- B. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use except as otherwise provided for in the AG zoning district.
- C. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
- D. All accessory buildings, structures and uses combined shall cover no more than fifty (50) percent of any rear yard, subject to setback, lot coverage, and other standards of this Ordinance. Accessory buildings shall not be erected in any required front yard. In no instance shall such a building be nearer than ten (10) feet to any adjoining lot line or twenty-five (25) feet from a street right of way.
- E. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.
- F. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- G. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, such accessory building shall be set back from the streets side at least as far as the required front yard setbacks of the lot at the rear of the subject corner lot.
- H. No accessory building may be closer than five (5) feet to any other accessory building.

SECTION 16.27 YARD SALE ORDINANCE:

- A. Yard sales conducted upon residential premises shall be limited to three (3) consecutive days, and no more than four (4) such sales shall take place in any one calendar year. A subsequent sale must take place more than thirty (30) days after the last day of the preceding sale. Unsold items and items used for display purposes shall not remain in public view.
- B. One sign may be placed upon a residential premise where the yard sale is taking place. For those yard sales taking place on a side road, two additional signs advertising the yard sale may be placed at the nearest intersections of major roads. Yard sale signs must not be attached to telephone poles or street signs and must be free standing and taken down at the end of the yard sale.

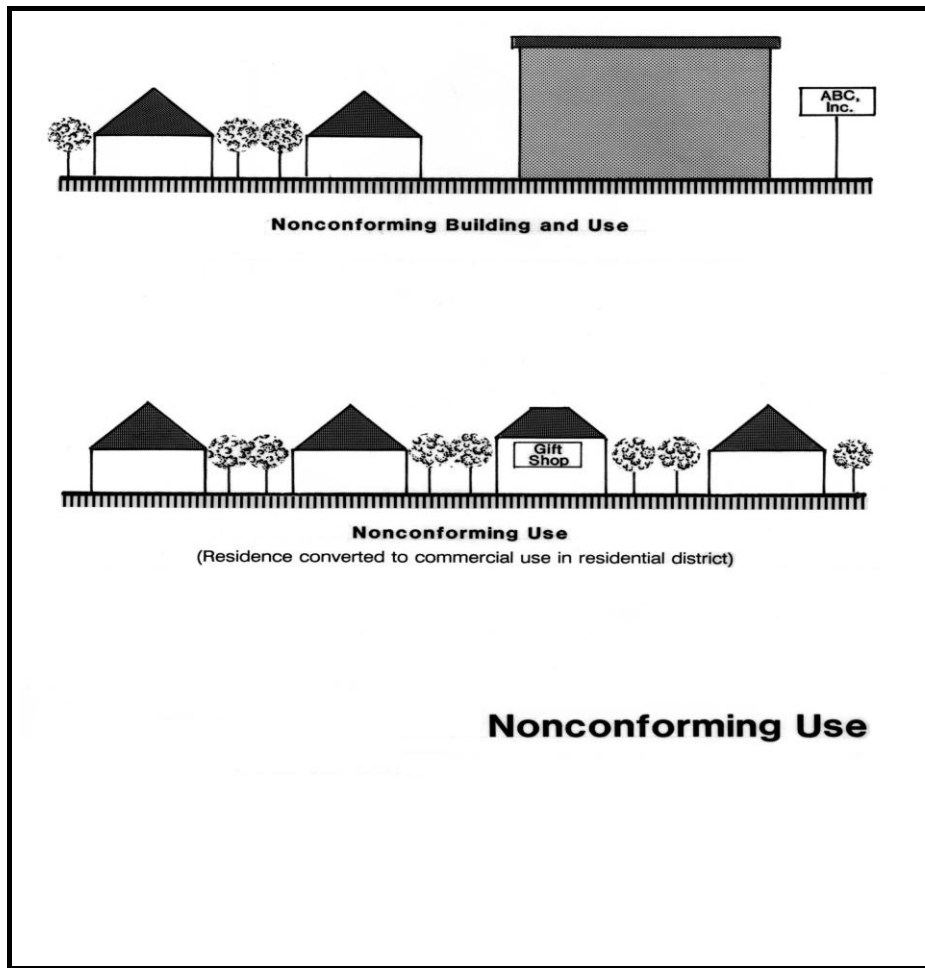
CHAPTER 17

NONCONFORMING USES AND STRUCTURES

SECTION 17.01 INTENT

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the Ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.



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SECTION 17.02 NONCONFORMING USES OF LAND

A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

Where, on the effective date of this ordinance, or the effective date of an amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Use.** No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. **Moving.** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. **Discontinuation of Use.** If such nonconforming use of land ceases for any reason for a period of more than twelve months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. **Permitted Construction of Residential Buildings:** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected upon any parcel of land which was a single lot of record at the effective date of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. Yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Variances for yard requirements shall be obtained through approval of the Zoning Board of Appeals.

SECTION 17.03 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

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Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Structure Permitted Enlargement.** A structure that is nonconforming with respect to the minimum required front yard setback may be enlarged provided that:
1. Such enlargement shall be permitted only for a primary building.
 2. Such enlargement shall not extend closer to the front lot line than the front façade of the building.
 3. Such enlargement shall conform to all other dimensional standards of the District in which the building is located.
- B. **Moving.** Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

SECTION 17.04 ALTERATIONS, REPAIRS AND MAINTENANCE

Protecting Public Safety. Repairs or maintenance deemed necessary by the County Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the County Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

Damage by Fire or other Natural Disaster. Any nonconforming structure or building, but not a nonconforming use, that is damaged by fire, flood, wind or other natural means may be restored, and the conforming use or occupancy of such building or structure, or part thereof, which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of one year after the time of such damage or event and is diligently prosecuted to completion. A one time extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within the allowed time frame.

Enlargement & Extension Beyond Present Building Confines. No nonconforming use of land, except residential dwellings, shall hereafter be enlarged or extended beyond its present building confines. A nonconforming use of land may however, be expanded or extended within its present building confines. Furthermore, a residential nonconforming use may be expanded or extended up to twenty-five (25) percent of the ground floor area of the existing residence.

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SECTION 17.05 TOWNSHIP REMOVAL OF NONCONFORMING USES AND STRUCTURES.

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Section 24, Public Act 184 of 1943, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

SECTION 17.06 CHANGE IN TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this Ordinance.

SECTION 17.07 ENCUMBERING LAND REQUIRED TO SATISFY REGULATIONS

No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use, shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

SECTION 17.08 UNLAWFUL NONCONFORMITIES

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

SECTION 17.09 RECORDING OF NONCONFORMING USES AND STRUCTURES

The Township shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the Township with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

SECTION 17.10 PLANS ALREADY FILED

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a

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Building Permit for such building has been issued, such building may be erected provided construction is begun within three (3) months and diligently pursued to completion.

CHAPTER 18

LANDSCAPING STANDARDS

SECTION 18.01 INTENT

The intent of this Chapter is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of sites, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character in the Township.

The standards of this Chapter are also intended to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, assist in directing safe and efficient traffic flows at driveways and within parking areas, and minimize negative impacts of stormwater runoff.

The landscape standards of this Chapter 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.

SECTION 18.02 REQUIREMENTS AND TIMING OF LANDSCAPING

A. Plan Required.

Landscaping shall be included with all non-residential (commercial, office, and industrial), multiple family (three or more units) developments, and manufactured housing park developments plan applications reviewed by the Township. A separate landscaping plan shall be submitted at a minimum scale of one (1) inch equals fifty (50) feet. The landscape plan shall clearly describe the location, type, size, and spacing of all plant materials.

B. Installation and Inspection.

Wherever this Ordinance requires landscaping or plant materials, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials which may be supplemented with other plantings. The Planning Commission may require a performance guarantee in a form acceptable to the Township, to cover the costs of landscaping prior to the issuance of a certificate of occupancy.

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Landscaping shall be installed in a sound manner according to generally accepted planting procedures with the quality of plant materials as hereinafter described and shall be protected from vehicular encroachment and snow removal operations.

In the event a performance guarantee is being held, the Zoning Administrator will within three (3) months of receiving written notification of installation, conduct an inspection to verify said installation and authorize release of the guarantee.

C. Plant Material Standards.

It is the intent of this Chapter that a diverse mixture of plantings be provided. Therefore, all required landscaping shall comply with the following minimum plant material standards, unless otherwise specified within this Chapter. These standards may be varied by the Planning Commission where the established minimums, in the judgement of the Commission, will not serve the purpose and intent of this Chapter.

1. Plant Quality.

Plant materials permitted in required landscaped areas shall be hardy to the climate of Michigan, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.

2. Plant Size Specifications.

a. Trees.

Required trees shall be of adequate size as determined by the Planning Commission at the time of planting, unless otherwise stated in this Chapter.

i. Deciduous Trees.

Two and a half (2 ½) inch caliper minimum trunk measurement at four (4) feet off the ground, with a minimum eight (8) feet in height above grade when planted.

ii. Evergreen Trees.

Six (6) feet in height, with a minimum spread of three (3) feet and the size of the burlapped root ball shall be at least ten (10) times the caliper of the tree measured six (6) inches above the grade.

iii. Deciduous Ornamental Trees.

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One (1) inch caliper minimum at three (3) feet off the ground, with a minimum height of six (6) feet above grade when planted.

b. Shrubs.

Minimum twenty-four (24) inches in height above planting grade.

c. Hedges.

Planted in such a manner as to form a continuous unbroken visual screen within two (2) years after planting.

d. Vines.

Minimum of thirty (30) inches in length after one (1) growing season.

e. Ground Cover.

Planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.

f. Grass.

Planted in species normally grown as permanent lawns in the south-central Michigan area. Grass may be plugged, sprigged, seeded, or sodded, except that rolled sod, erosion reducing net, or other suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and disease.

g. Mulch Material.

Minimum of four (4) inches deep for planted trees, shrubs, and vines, and shall be installed in a manner as to present a finished appearance.

h. No plant materials used to satisfy these standards shall be comprised of non-living materials, such as plastic plants.

i. Ground covers shall be planted in such a manner so as to present a finished appearance and reasonably complete coverage after one complete growing season, at a rate of at least three plants per square foot.

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- j. All plant materials shall be well-formed, sound, vigorous, healthy and free from disease, sun scald, wind burn, abrasion, and harmful insects at the time of planting.
- k. The following plant materials are not permitted for planting (in a public right-of-way or as required by the minimum landscaping standards of this Ordinance) due to their tendency and susceptibility to storm damage, their roots are known to clog drains and sewers, they are known to be susceptible to disease or insect pests, or other undesirable characteristics: Silver Maple, Box Elder, Honey Locust (thorned), Ginko (female), Mulberry, Poplar, Black Locust, Willow, American Elm, Siberian Elm, Slippery Elm (Red Elm), and Chinese Elm, Horse Chestnut, Poplar, Ailanthus, Catalpa, Osage orange, Cottonwood, and European Barberry.

SECTION 18.03 SPECIAL PROVISIONS FOR EXISTING SITES

Special provision is made for applying these standards to developed sites which existed prior to the effective date of this Ordinance. Therefore, when an existing site is undergoing improvement, a change in use, or expansion that requires the submittal of a development plan, the objective of these standards is to gradually bring the existing site into compliance with the minimum standards of this Chapter in relation to the extent or change on a site.

When reviewing plans for a change in use or expansion which requires development plan review, the Zoning Administrator or body reviewing the plan shall require an upgrade in landscaping, using the following as guidelines:

A. General Requirements.

Each building expansion requiring development plan review shall provide at least 10% of the landscaping requirements for a new development for every 10% of expansion.

B. Street and Parking Lot Requirements.

Each building expansion requiring development plan review should provide landscaping along public streets and within parking areas, with landscaping along public streets as the priority. Where parking lot landscaping cannot be reasonably provided, additional landscaping along the street or in any required buffer areas should be considered.

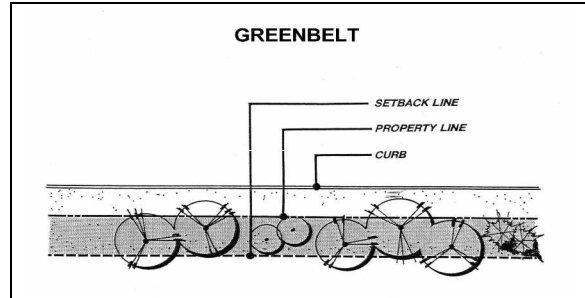
SECTION 18.04 REQUIRED LANDSCAPING ALONG PUBLIC RIGHT-OF-WAYS

One (1) of the following street landscaping options is required on land abutting public streets or where otherwise referenced.

A. Greenbelt.

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1. Minimum width of ten (10) feet. The Planning Commission may permit the width of the greenbelt to be reduced in cases where existing conditions do not permit a ten (10) foot width. In such cases, the greenbelt requirement may be met through the provision of street trees or the provision of landscaping as required below.
2. At least one (1) deciduous tree and four (4) shrubs per each thirty (30) lineal feet of street frontage. Location of the trees and shrubbery is discretionary.
3. The greenbelt area shall contain grass, vegetation ground cover, mulch, or crushed stone on a weed barrier, and be curbed or edged.
4. Where headlights from parked vehicles will shine into the roadway, the Planning Commission may require the use of a totally obscuring hedge with a minimum height of twenty-four (24) inches and a maximum height of thirty-six (36) inches.



B. Berm.

1. Minimum height of two (2) feet with a crest at least three (3) feet in width. The height of the berm may meander if the intent of this Chapter is met and an appropriate screen is provided.
2. The exterior face of the berm shall be constructed as an earthen slope, with a slope not to exceed one (1) foot of vertical rise to three (3) feet of horizontal distance (1:3). The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace, or other means acceptable to the Planning Commission.
3. At least one (1) deciduous tree shall be provided for each thirty (30) feet of lineal berm length.
4. At least one (1) minimum shrub shall be provided for each one-hundred (100) square feet of berm surface area, as calculated from a plan view.
5. Berm slopes shall be protected from erosion by sodding or seeding. If the slopes are seeded, they shall be protected until the seed germinates and a permanent lawn is established by a straw mulch, hydro-mulching, or netting specifically designed to

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control erosion.

C. Buffer Strip.

1. Minimum width of ten (10) feet.
2. All trees shall be evergreens and the planting shall be staggered or off-set.
3. The buffer planting area shall contain grass, vegetation ground cover, mulch, or crushed stone on a seed barrier, and be curbed or edged as necessary.

SECTION 18.05 PARKING LOT LANDSCAPING

Within every parking area containing ten (10) or more proposed spaces, at least one (1) deciduous tree and ornamental tree with at least one-hundred (100) square feet of planting area shall be used for every ten (10) parking spaces, in addition to any other landscaping requirements. This landscaping shall meet the following standards:

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

SECTION 18.06 WASTE RECEPTACLE AND MECHANICAL EQUIPMENT SCREENING

Waste receptacles shall be located and screened in accordance with the standards of this Ordinance including those standards identified in Chapter 18 Landscaping, or other Township ordinances. Ground mounted mechanical equipment shall be screened with plant materials or a wall, when visible from a public-right-of-way or parking area.

SECTION 18.07 GENERAL LAYOUT AND DESIGN STANDARDS

- A. Plant Health and Maintenance.

Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials, including lawn areas, shall be maintained in a healthy and growing condition, neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, they shall be replaced within thirty (30) days of written notice from the Zoning Administrator, or within an extended time period as specified in said notice.

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B. Removal of Support Material.

Tree stakes, guy wires, and tree wrap are to be removed after one (1) year.

C. Irrigation.

All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued maintenance.

D. Visibility.

Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants, and shall not interfere with or obstruct the view of public viewsheds and sight lines from rights of way and public property to streams, lakes, and other waterways.

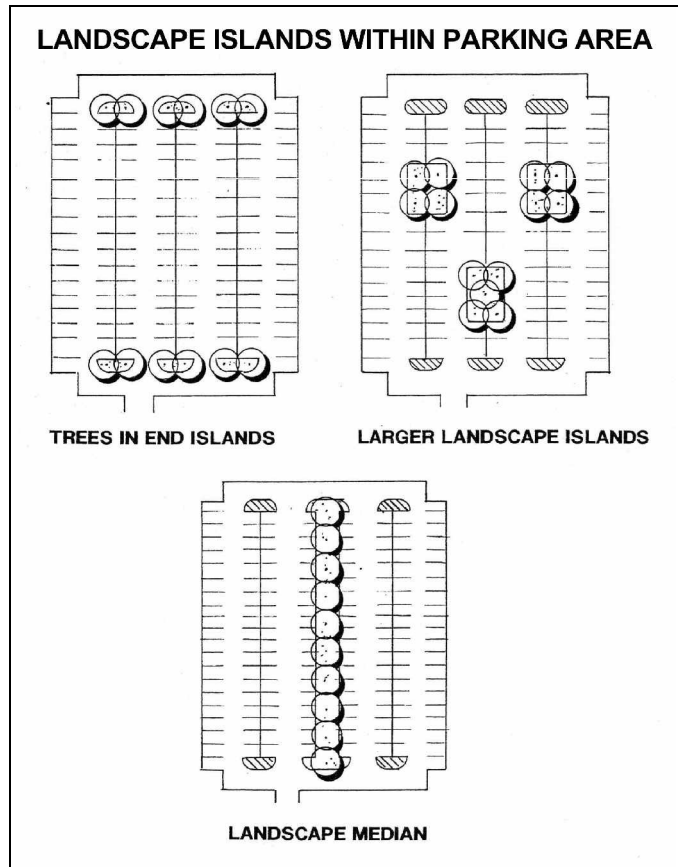
E. Species Tolerance.

Public and private roads, cul-de-sacs, site entrances, and boulevard medians shall be landscaped with species tolerant of roadside conditions common to the area.

SECTION 18.08 WALLS AND BUFFER STRIPS BETWEEN USES

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

A. Zoning Districts and Land Uses.



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For developments within the C-1 and I-1 districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a masonry wall, wooden privacy fence six (6) feet in height, or greenbelt, berm, or a buffer strip, (except as otherwise required) shall be required as deemed appropriate by the Planning Commission.

For non-residential land uses within residential zoning districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, an obscuring wall six (6) feet in height, decorative wooden privacy fencing, a greenbelt, a berm, or a buffer strip (except as otherwise required).

B. Location.

Required walls, fences, greenbelts, berms, or buffers strips shall begin on or at the property line, except where underground utilities interfere.

C. Materials.

Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided for in this Ordinance and except such openings as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Planning Commission to be durable, weather resistant, rustproof, and easily maintained. Materials for walls shall be compatible with surrounding building materials. Materials for the greenbelts, berms, or buffer strips shall be in accordance with the standards identified in this Chapter unless specified elsewhere.

D. Alternatives.

The Planning Commission may approve a landscaped berm as an alternative to a wall upon finding the landscaped berm will provide a similar screening effect.

SECTION 18.09 WAIVER OR MODIFICATION OF STANDARDS FOR SPECIAL SITUATIONS

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

- A. Extent that existing natural vegetation provides desired screening.

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- B. There is a steep change in topography which would limit the benefits of required landscaping.
- C. The presence of existing wetlands.
- D. Existing and proposed building placement.
- E. The abutting or adjacent land is developed or planned by the Township for a use other than residential.
- F. Building heights and views.
- G. Similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

CHAPTER 19

SPECIAL LAND USE PERMIT REVIEW PROCEDURES

SECTION 19.01 SPECIAL LAND USE REVIEW

The Planning Commission shall have the following specific powers and duties concerning special use approvals.

- A. **Statement of Intent.** The procedures and standards set forth in this Chapter are intended to provide a consistent and uniform method for review of proposed plans for special land uses.

In hearing and deciding upon special use permit requests, the Planning Commission shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts, within each district the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

- B. **Application.** The application for special land use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:
1. The Chapter of this Ordinance under which the special land use is sought.
 2. A site plan which shall include all the information required by this Ordinance in Chapter 12.
 3. A letter describing the proposed use of the property.
 4. Other information which the Planning Commission may reasonably deem necessary for adequate review.

The application shall be submitted by the owner having an interest in land for which the special land use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

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C. **Notice of Public Hearing.** Upon receipt of a complete application, site plan, and attachments, if any, the Township shall schedule a public hearing on the request. The notice shall be given not less than fifteen (15) days prior to the date of the public hearing. The notice shall be published in a newspaper that circulates in the Township; and such notice shall be sent by mail to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to occupants of all structures within three hundred (300) feet of the property boundary regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall contain:

1. A description of the nature of the special land use request under the specific section of this Ordinance.
2. A legal description or address and/or an approximate sketch of the property which is the subject of the request.
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where comments will be received concerning the request.

D. **Planning Commission Determination.** Following the public hearing, the Planning Commission shall review the application for the special land use permit, together with the public hearing findings and reports and recommendations of Township staff, consultants and other reviewing agencies. The Planning Commission is authorized to deny, approve, or approve with conditions, requests for special land use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to the approval.

Performance guarantees may be required by the Planning Commission, in accordance with Chapter 19, to insure compliance with special approval conditions.

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- E. **Standards for Granting Special Use Approval.** Approval of a special land use permit shall be based on the determination that the proposed use will comply with all requirements of this ordinance, including site plan review criteria set forth in Chapter 12. In addition, the following standards shall be met:
1. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
 2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Township as a whole.
 3. The proposed special land use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Master Plan and shall promote the intent and purpose of this Ordinance.
 4. The Planning Commission shall find that a need for the proposed use exists in the community at the time the special land use application is considered.
 5. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
 - The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
 - The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

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6. The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
 - Proximity and access to major thoroughfares.
 - Estimated traffic generated by the proposed use.
 - Proximity and relation to intersections.
 - Location of and access to off-street parking.
 - Required vehicular turning movements.
 - Provision for pedestrian traffic.
 7. The proposed special land use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
 8. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
 9. The proposed use shall be compatible with the natural environment.
- F. **Recording of Planning Commission Action.** Each action taken with reference to a special land use proposal shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.
- G. **Effective Duration of Special Use Approval.** Special use approvals shall run with the owner/operator granted permission and may be issued for specified periods based upon the impacts of the proposed use to surrounding property. The sale, transfer or conveyance of the property on which the special land use is located shall nullify the special use approval. Any new proposed owner or operator shall be required to submit and be approved by the Township Planning Commission for a new special use permit in order to continue said operation or activity.
- H. **Amendments to Special Land Uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application shall be subject to the same procedures followed for an original special approval of land use. The denial of an application to amend an existing Special Use Permit shall not nullify or cause to prohibit the applicant from continuing to operate

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in compliance/conformance within the specifications of the original (existing) Special Use Permit approval.

- I. **Revocation of Special Land Use Approval.** Approval of a special land use permit and site plan may be revoked by the Planning Commission if construction is not in conformance with the approved plans. In such a case, the Zoning Administrator shall place the special land use on the agenda of the Planning Commission for consideration, and give written notice to the applicant at least five (5) days prior to the meeting. The applicant shall be given the opportunity to present information to the Planning Commission and answer questions. The Planning Commission may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.

SECTION 19.02 PERFORMANCE GUARANTEES

- A. **Purpose.** To insure compliance with the provisions of this Ordinance and any conditions imposed there under, the Planning Commission or Zoning Board of Appeals may require that a performance guarantee be deposited with the Township to insure the faithful completion of improvements, in accordance with the provisions of the Township Zoning Act, Public Act 184 of 1943, as amended. Improvements for which the Township may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, surfacing of drives, parking, and acceleration/deceleration lanes, traffic control devices, sewer or water line expansion, storm water retention areas and land reclamation activities.
- B. **Scope of Requirement.** The performance guarantee can apply only to those specific features and actions which the Planning Commission or Zoning Board of Appeals considers necessary to protect natural resources or the health, safety, or welfare of residents, project users, or the general public. A performance guarantee may not be required for the entire project. The guarantee is limited to those project components specifically designated by the Planning Commission or Zoning Board of Appeals.
- C. **General Requirements.** A performance guarantee shall be required by the Planning Commission on the applicable portion(s) of a site plan under any of the following circumstances:
 1. To meet the costs of improvements required to be made by the applicant to public facilities owned by the Township as a condition of site plan approval.
 2. To ensure the completion of the common elements of site plan affecting two or more parties.
 3. To ensure the completion of those portions of a site plan which will not be completed by the applicant prior to a request for occupancy.

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The Planning Commission or Zoning Board of Appeals may require a performance guarantee on any other specific improvement when determined by resolution that the guarantee is necessary to protect the natural resources of the Township or the health, safety, or welfare of residents, project users, or the general public.

D. General Conditions:

1. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. No building permit or related Township permit shall be issued unless the Zoning Administrator is satisfied that the guarantee is in full compliance with this Article.
2. The performance guarantee shall be in the form of:
 - A cash deposit or deposit by certified check drawn on a bank authorized to do business in the State of Michigan, or
 - An irrevocable letter of credit issued on behalf of the Township by a bank authorized to do business in the State of Michigan, or
 - A surety bond in a form and manner acceptable to the Township Attorney. The costs of the review of a surety bond by the Township Attorney shall be paid by the applicant as part of the issuance of a permit.
3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements associated with a project for which site plan approval or zoning variance has been obtained. Accordingly, the applicant shall provide an itemized listing of estimated costs and a proposed time schedule to complete all of the improvements determined to require a performance guarantee. The Zoning Administrator shall review the submitted costs for reasonableness and shall determine an accurate amount for the performance guarantee. In determining the amount, the Zoning Administrator may consider signed contracts or sub-contracts supplied by the applicant or the Zoning Administrator may secure or require that the applicant secure a sealed statement from a licensed architect or engineer verifying the estimates.
4. Cash funds or a certified check made payable to the Township shall be deposited by the Township into an account in a financial institution with which the Township regularly conducts business.
5. In the case of a guarantee exceeding \$2000, and by request of the applicant,

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the guarantee may be released to the applicant in an amount proportional to the work completed on various elements, provided that a minimum of ten percent (10%) shall be retained on each element until the satisfactory completion of the entire project. The amount of work completed shall be based upon an inspection and determination by the Zoning Administrator.

6. An amount not to exceed the actual cost of the installation of landscape materials may be retained by the Township for at least one (1) year following the installation of said materials to insure proper maintenance and, if necessary, replacement. This amount shall be released to the applicant upon certification by the Zoning Administrator that all landscape materials are being maintained in good condition.
7. The unexpended balance of a performance guarantee, including any interest, shall be returned to the applicant following inspections by the appropriate Township officials and a positive determination by the Zoning Administrator that the required improvements have been satisfactorily completed and that all other requirements of this Article are met.

- E. **Unsatisfactory Completion of Improvements.** When required improvements are not installed or maintained within the time stipulated or are not completed in accordance with the standards set forth within this Ordinance or as agreed upon between the applicant and the Planning Commission or Zoning Board of Appeals, the Zoning Administrator may order the improvements completed by the Township or by an independent contractor, or may order that the site be returned to its original condition.

The Zoning Administrator shall order the completion of the improvements and so notify the applicant by certified mail at least thirty (30) calendar days prior to the undertaking of completion. During this time period, the applicant may seek an order from a court of competent jurisdiction to prevent the action by the Township.

All costs incurred by the Township for the completion of the improvements or the restoration of the site, including direct administrative costs, shall be assessed against the performance guarantee.

- F. **Subdivision Improvements.** This Chapter shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited with the Township by the applicant pursuant to the Land Division Act (P.A. 288 of 1967, as amended).

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CHAPTER 20

ZONING BOARD OF APPEALS

SECTION 20.01 CREATION

It is hereby created under P.A. 110 of 2006, as amended, the Michigan Zoning Enabling Act, the Butler Township Zoning Board of Appeals, referred in this Ordinance as the "Zoning Board of Appeals." The Zoning Board of Appeals shall be constituted and appointed as provided by Michigan Township Zoning Act and shall be comprised of five members (5) members.

SECTION 20.02 INTENT

The purpose of this Chapter is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

SECTION 20.03 ADOPTION OF RULES AND PROCEDURES

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with this Ordinance and the Michigan Township Zoning Act.

SECTION 20.04 JURISDICTION OF THE ZONING BOARD OF APPEALS

A. General Authority

The ZBA shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have the authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

B. Administrative Review

The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an

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official, board or commission in carrying out or enforcing any provisions of this Ordinance.

C. Interpretation

The ZBA shall have authority to hear and decide appeals or requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map and boundary interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance. Such authority shall include interpretation of whether a use is permitted in a given zone, or determination of off-street parking and loading requirements for any use not specifically listed.

D. Variances

The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

1. The ZBA may grant a requested “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
 - a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome.

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- b) The variance will do substantial justice to the applicant, as well as to other property owners.
 - c) A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - d) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
 - e) The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
2. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other person may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

E. Conditions

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:

- 1. To insure 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.
- 2. To protect the natural environment and conserve natural resources and energy
- 3. To insure compatibility with adjacent uses of land
- 4. To promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet the following requirements:

- a) Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners

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immediately adjacent to the proposed land use or activity, and the community as a whole.

- b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, of the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

SECTION 20.05 APPLICATION AND NOTICES

A. Application

All applications to the ZBA shall be filed with the Township Zoning Administrator, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. The Zoning Administrator shall transmit the application and information to each member of the Board of Appeals within five (5) days of the filing date. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.

B. Plot Plan

A plot plan shall be required with all variance requests. The plan shall be to scale and include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property and abutting lots and parcels, dimensions of the structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this Ordinance. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Chapter 14 shall satisfy the requirements of this section.

The ZBA shall have the authority to require a land survey at owners expense prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

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The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

C. Application Involving an Appeal of Administrative Order

In a case involving an appeal from an action of an administrative official or entity, the administrative official or the clerk or secretary of the administrative entity, as the case may be, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

D. Consent of Property Owner Required

Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

E. Notice

When a request for an appeals has been filed in proper form with the Zoning Board of Appeals, the Chairman shall immediately place the said request for appeal upon the calendar for hearing, and cause a notice, stating the time, place and object of the public hearing to be served personally or by mail shall be published in a newspaper of general circulation in the Township at least not less than fifteen (15) days prior to before the date of such hearing, upon the party or parties making the request for appeal and to notify by mail all property owners within 300 feet of the premises seeking an appeal. A notice shall also be sent by mail or personal delivery to the owners of property that is the subject of the request. If the request for an appeal involves a specific parcel, written notice shall be sent to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request and to all occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

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The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property which is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently existing within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

F. Stay of Proceedings

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

G. Decision by the Zoning Board of Appeals

The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a variance from the terms of this ordinance. A decision shall be made upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned.

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SECTION 20.06 DISPOSITION AND DURATION OF APPROVAL

A. ZBA Powers

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions

B. Decision Final

A decision by the ZBA shall not become final until the expiration of ten (10) days from the date of entry of such order and service of the same upon the parties concerned unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.

C. Period of Validity

Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

D. Record of Proceedings

The secretary of the ZBA shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.

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E. Appeal of a ZBA Decision

Appeals of a ZBA decision may be taken to Branch County Circuit Court at the discretion of the applicant. Such an appeal must be filed within 21 days of the approval of the minutes of the meeting in question or 30 days after the issuance of a decision letter signed by the Chair of the ZBA or by three or more members of the ZBA other than the Chair.

F. New Application for Variance

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

G. Site Plan Requirements

If an application or appeal to the Board of Appeals involves a development project which requires a recommendation of site plan approval by the Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Chapter 12, "Site Plan Review". The Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Commission's findings thereon to the Board of Appeals.

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CHAPTER 21

ZONING ADMINISTRATION

SECTION 21.01 RESPONSIBILITIES

The Township Supervisor, or his/her duly authorized representative as specified in this Chapter, is hereby charged with the duty of enforcing the provisions of this Ordinance. Furthermore, administrative responsibilities are vested in the following Township entities:

- A. Township Board
- B. Planning Commission
- C. Zoning Board of Appeals
- D. Zoning Enforcement Officials, which shall include the Township Supervisor and his/her duly authorized assistants or representatives.

The purpose of this article is to set forth the scope of authority of these entities.

SECTION 21.02 TOWNSHIP BOARD

The Township Board shall have the following responsibilities and authority pursuant to this Ordinance.

- A. **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes expressed in the Preamble to this Ordinance, and pursuant to the authority conferred by Michigan Public Act 184 of 1943, as amended, the Township Board shall have the authority to adopt this Ordinance, any amendments to this Ordinance which have been previously considered by the Planning Commission or at a hearing, or as decreed by a court of competent jurisdiction.
- B. **Setting of Fees.** The Township Board shall, by resolution, have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Township Board to set a fee for a specific permit or application, the Township Supervisor shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

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- C. **Approval of Planning Commission Members.** In accordance with Michigan Public Act 184 of 1943, as amended, members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board.

SECTION 21.03 TOWNSHIP PLANNING COMMISSION

- A. **Creation.** The Township Planning Commission is created pursuant to Michigan Public Act 168 of 1959, as amended, the Township Planning Act. The Planning Commission shall have all the powers and duties provided for zoning boards created pursuant to Michigan Public Act 184 of 1943, as amended.
- B. **Jurisdiction.** The Planning Commission shall discharge the following duties pursuant to this Ordinance:
1. Formulation of Zoning Ordinance and Amendments. The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the Township Board.
 2. Site Plan Review. The Planning Commission shall be responsible for review of applications for site plan approval in accordance with Chapter 12. As provided for in Chapter 12, the Planning Commission shall be responsible for making a determination to grant approval, approval subject to revisions, or denial of submitted site plans.
 3. Special Land Use Review. The Planning Commission shall be responsible for holding hearings and review of all applications for special land use approval in accordance with Chapter 19 of this ordinance to grant approval, approval subject to revisions, or denial of approval of a submitted special land use application.
 4. Planned Unit Development Review. The Planning Commission shall be responsible for holding hearings and review of all applications for planned development in accordance with Chapter 10. The Planning Commission shall be responsible for granting approval, approval with conditions, or denial of a Planned Unit Development proposal.
 5. Formulation of a Basic Plan. The Planning Commission shall be responsible for formulation and adoption of a basic plan (i.e., the Butler Township Master Plan) as a guide for the development of the Township, in accordance with Michigan Public Act 33 of 2008, as amended.

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6. Review of Public Works. In accordance with Michigan Public Act 33 of 2008, as amended, whenever the Planning Commission shall have adopted a master plan for the Township or of one or more major sections or districts thereof; no street, street widening, square, park, or other public way, ground, or open space, or public building or structure, shall be constructed or authorized in the Township or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission. In case of disapproval, the commission shall communicate its reasons to the Township Board, which shall have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership. The failure of the commission to act within 60 days after the date of an official submission of a public works proposal to the commission shall be deemed approval.

7. Review of Plats. Whenever the Planning Commission shall have adopted a master plan relating to the major street system of the territory within the Township or part thereof, and shall have filed a certified copy of such plan in the office of the Branch County Register of Deeds, then no plat of a subdivision of land within the Township or part thereof shall be filed or recorded until it shall have been approved by the Planning Commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

8. Review of Matters Referred by the Township Board. The Planning Commission shall be responsible for review of matters relating to land development referred to it by the Township Board. The Planning Commission shall recommend appropriate regulations and action on such matters.

9. Publicity and Education. The Planning Commission shall have the power to promote public interest in and understanding of the master plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education. The Planning Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out the plan.

SECTION 21.04 ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall act on all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning districts map. The Zoning Board of Appeals shall also hear and decide appeals from any order, requirements, decision, or determination made by an administrative official or body

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charged with enforcement of this Ordinance; and shall hear and decide matters referred to it or upon which it is required to pass under this Ordinance. The Zoning Board of Appeals shall not have the power to alter or change zoning district classification of any property. The creation, responsibilities, and limitations of power of the Zoning Board of Appeals are further specified in Chapter 20 of this Ordinance.

SECTION 21.05 ZONING ENFORCEMENT OFFICIALS

- A. **Establishment of Enforcement Officials.** As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Township Supervisor or his/her duly authorized assistants or representatives. In carrying out designated duties, enforcement officers shall administer the Ordinance precisely as it is written and shall not make changes or vary the terms of this Ordinance.
- B. **Responsibilities of the Zoning Administrator.** The Zoning Administrator shall be appointed by the Township Board and shall serve under the direction of the Township Supervisor. The Township Zoning Administrator may have the following responsibilities:
- Provide citizens and public officials with information relative to this Ordinance and related matters.
 - Assist applicants in determining the appropriate forms and procedures related to site plan review, zoning, and other zoning matters.
 - Review all applications for site plan review, special land use review, planned development proposals, and take any action required as outlined in this ordinance.
 - Forward to the Planning Commission all applications for site plan review, special land use review, planned unit development proposals, petitions for amendments to this Ordinance, and other applications which must be reviewed by the Planning Commission.
 - Forward to the Zoning Board of Appeals all materials related to applications for appeals, variances, of other matters on which the Zoning Board of Appeals is required to act.
 - Forward to the Township Board all recommendations of the Planning Commission concerning matters on which the Township Board is required to take final action.

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- Periodically report to the Planning Commission on the status of Township zoning and planning administration.
 - Maintain up-to-date Zoning Map, Zoning Ordinance text, and office records by recording all amendments and filing all official minutes and other documents in an orderly fashion.
 - Maintain a record of all nonconforming uses, structures, and lots existing on the effective date of this Ordinance, and update this record as conditions affecting the nonconforming status of such uses or structures changes.
 - Perform other related duties, as specified by the Township Administrator.
- C. **Conformance with this Ordinance.** It shall be unlawful for the Zoning Administrator to approve any plans or issue any zoning permits or certificates of occupancy until he has inspected such plans in detail and found them to conform with this Ordinance.

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CHAPTER 22

AMENDMENTS TO THE ZONING ORDINANCE AND MAP

SECTION 22.01 STATEMENT OF INTENT

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing District or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this Ordinance shall be in accordance with Act 110 of the Public Acts of 2006, as amended.

SECTION 22.02 AMENDMENT PROCEDURE

- A. **Application.** Applications for amendments to this Ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
 2. The nature and effect of the proposed amendment.
 3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area effected, the present zoning classification of the land, the names and addresses of the owners of all land and the legal descriptions of their land within the area to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.

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4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
 5. The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
 6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.
- B. **Receipt of Application.** The Zoning Administrator, upon receipt of an application to amend the Ordinance, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection (c) below.
- C. **Public Hearing.** A public hearing notice on the proposed Ordinance amendment shall be published in a newspaper of general circulation in the Township not less than fifteen (15) days fore the date of the hearing.
1. If an individual property or ten (10) or fewer adjacent properties are included in the proposal, a notice must be published as required above, and a notice shall also be sent by mail or personal delivery to the owners of property that is the subject of the request. If the request for an appeal involves a specific parcel, written notice shall be sent to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request and to all occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.

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The notice shall do all of the following:

- i. Describe the nature of the request.
 - ii. Indicate the property which is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently existing within the property. If there are no street addresses, other means of identification may be used.
 - iii. State when and where the request will be considered.
 - iv. Indicate when and where written comments will be received concerning the request.
2. If eleven (11) or more adjacent properties are included in the proposal, a notice must be published as required above but shall not be required to be distributed to property owners and residents within 300 feet.

The notice shall do all of the following:

- i. Describe the nature of the request.
 - ii. Indicate the property which is the subject of the request.
 - iii. State when and where the request will be considered.
 - iv. Indicate when and where written comments will be received concerning the request.
- D. The Township Board shall grant a public hearing on the proposed Ordinance amendment to an interested property owner who requests a hearing by certified mail, addressed to the Township Clerk. Written notice of the public hearing shall be given to the interested property owner. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

The notice shall do all of the following:

1. Describe the nature of the request.

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2. Indicate the property which is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently existing within the property. If there are no street addresses, other means of identification may be used.
 3. State when and where the request will be considered.
 4. Indicate when and where written comments will be received concerning the request.
- D. **Planning Commission Recommendation.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the Township Board.
- E. **Township Board Action.** After the Planning Commission has held a Public Hearing and has made a written report to the Township Board indicating their recommendation on the proposed amendment, the Township Board may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings.

SECTION 22.03 PROTESTS

Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either thirty (30) days after publication, if a petition is not filed or the petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed.

Within thirty (30) days following the adoption of an amendment to the Zoning Ordinance, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of Butler Township equal to not less than ten (10) percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected may be filed with the Office of Township Clerk requesting therein for the submission of the amendment to the electors residing in the unincorporated portion of Butler Township for their approval.

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SECTION 22.04 CONFORMANCE TO COURT DECREE

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.

SECTION 22.05 COMPREHENSIVE REVIEW OF ORDINANCE AND ANNUAL REPORT TO BOARD

The Planning Commission shall, from time to time at intervals of not more than five (5) years, examine the provisions of this Ordinance and the location of district boundary lines and shall submit a report to Township Board recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare. In addition, the Commission shall annually report to the Board on their annual activities as well as their projected work plan and anticipated budget for the upcoming year.

CHAPTER 23

VIOLATIONS AND PENALTIES

SECTION 23.01 PUBLIC NUISANCE

Buildings erected, altered, raised, or converted (including tents, mobile homes, and trailer coaches), or uses carried on in violation of any provision of this Ordinance are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.

SECTION 23.02 VIOLATION DEFINED

Any person, firm, corporation, or agent, or employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement official, shall be deemed in violation of this Ordinance.

SECTION 23.03 PENALTIES

Any violation of this Ordinance shall constitute a Municipal Civil infraction. Any person who is convicted shall be subject to punishment by a civil fine of not less than fifty dollars (\$50.00) and not exceeding five hundred dollars (\$500.00). A civil fine of not less than two-hundred dollars (\$200.00) and not more than five-hundred dollars (\$500.00) will be imposed for the second and subsequent offense. Each day a violation occurs or continues shall constitute a separate offense.

Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates or assists in any violation of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall be assessed against the violator.

The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

SECTION 23.04 PROCEDURES FOR ADDRESSING VIOLATIONS

The following procedures shall be followed in addressing potential violations. The Township Board, the Board of Appeals, Township Attorney, Branch County Prosecuting Attorney, or any owners or occupants of any real estate within the Township may institute injunction, mandamus, abatement or any other appropriate action or proceedings to

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prevent, enjoin, abate or remove any violation of this Ordinance:

A. Report of Violation

Any and all buildings or land use activities considered possible violations shall be reported to the Zoning Administrator or his/her Township appointed delegate.

B. Investigation

The Zoning Administrator shall inspect each alleged violation. If a violation has occurred, the Zoning Administrator shall issue an order to correct the violation to the offender within ten (10) days of the inspection.

C. Remedial Plan

All violation notices shall be responded to by submitting a remedial plan and timetable for correction of the violation to the Zoning Administrator within ten (10) days after the notice is issued. If the Zoning Administrator rejects the remedial plan or the timetable, revisions must be submitted to the Zoning Administrator within five (5) days of notification of the rejection.

D. Prosecution

A remedial plan and timetable not approved or not submitted within the required timetable shall be reported to the Township Board, who may initiate prosecution proceedings.

SECTION 23.05 AUTHORITY TO PURSUE COURT ACTION

The Township Board or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain and to prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute suit or join the Township Board in such a suit to abate the violation.

SECTION 23.06 OTHER REMEDIES

The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Township to initiate proceeding in an

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appropriate court of law to restrain or prevent any non-compliance with any provisions of this Ordinance, or to correct, remedy, or abate such noncompliance.

SECTION 23.07 RIGHTS AND REMEDIES PRESERVED

Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver or prevent any further prosecution of violations of this Ordinance.

SECTION 23.08 RECORDS OF VIOLATIONS AND REMEDIES

The Township Zoning Administrator shall keep accurate records of all decisions and actions relative to identified violations and corresponding actions and remedies.