

## APPENDIX A - ZONING

*Title.* An ordinance enacted under Act 110 of the Public Acts of 2006 (MCL 125.3101 *et seq.* ), as said statute may from time to time be amended, governing the unincorporated portions of Bath Charter Township, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size and types of uses that may be made of the minimum open spaces; to provide for sanitary, safety, light and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings and structures, including mobile homes; to provide for the appeals and for the organization and procedures to be followed by the zoning board of appeals; and to provide penalties for the violation of said ordinance.

*Preamble.* Bath Charter Township was created in 1966 under the provisions of the Charter Township Act, Act 359 of Public Acts of 1947 (MCL 42.1) as amended. The township planning commission was established on January 10, 1966 in compliance with the Charter Township Planning Act, Act 168 of 1959 (MCL 125.321 *et seq.* ) as amended and is, pursuant to the Michigan Zoning Enabling Act 110 of the Public Acts of 2006 (MCL 125.3101 *et seq.* ), as said statute may from time to time be amended, for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the township by protecting and conserving the character, social and economic stability of the residential, commercial, industrial, and other use areas by regulating the use of land to meet the needs for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service and other uses; by securing the most appropriate use of land; preventing overcrowding of the land and undue congestion of population; by lessening congestion on the public roads and streets to reduce hazards to life and property; providing adequate light, air, and reasonable access; and facilitating adequate economical provisions of water, sewer, schools, recreation and other public requirements, and by other means, all in accordance with the Bath Charter Township Development Plan, now therefore:

*Enacting clause.* Bath Charter Township ordains this ordinance shall be known and cited as the "Bath Charter Township Ordinance."

(Ord. No. 31.37, § 1, 4-19-2010)

## ARTICLE I. - TITLE

## Sec. 1.01. - Title.

The ordinance shall be known as the Bath Charter Township Zoning Ordinance.

(Ord. No. 31.37, § 2, 4-19-2010)

## ARTICLE II. - PURPOSE AND LEGISLATIVE INTENT

## Sec. 2.01. - Purpose.

Pursuant to the authority conferred by the Public Acts of the State of Michigan, this ordinance has been established for the purpose of:

- (1) Promoting and protecting the public health, safety, and general welfare;
- (2) Protecting the character and the stability of the agricultural, residential, and non-residential areas within Bath Charter Township and promoting the orderly and beneficial development of such areas;

- (3) Providing adequate light, air, privacy and convenience of access to property;
- (4) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
- (5) Lessening and avoiding congestion on the public highways and streets;
- (6) Providing for the needs of agriculture, housing, and commerce in future growth;
- (7) Promoting healthful surroundings for family life in residential and rural areas;
- (8) Protecting the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards;
- (9) Preventing the overcrowding of land and undue concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- (10) Enhancing social and economic stability in the township;
- (11) Conserving the taxable value of land, buildings and structures in the township;
- (12) Enhancing the aesthetic desirability of the environment throughout the township; and
- (13) Conserving the expenditure of funds for public improvements and services to conform with the most advantageous uses of land.

**State Law reference**— General purposes of zoning ordinances, MCL 125.273.

#### Sec. 2.02. - Legislative intent.

By their very nature, zoning cases force a confrontation between landowner and the public interest, or landowners against each other. In this light the primary consideration of this ordinance has been to devise technical solutions which minimize or eliminate conflicts promoted by prior zoning regulations. Ordinances have regularly forced a "winner-take-all" solution to zoning conflicts. Whenever a proposed use encountered objections, the township board had two choices - either permit the use, to the detriment of the objectors, or prohibit it entirely, to the detriment of the landowner who proposed it. If the zoning ordinance permits a use or activity, the surrounding pre-existing landowners usually are unprotected from any of its negative impacts. This ordinance has been designed to protect and accommodate both competing interests. Bath Charter Township has devoted a substantial effort to finding equitable solutions to conflicts. Every effort has been made to make uses a matter of right subject to performance criteria capable of non-discretionary, objective, administrative evaluation, thus reducing the number of times that case by case (ad hoc) decisions need to be made. This greatly increases the potential uses or choices available to individual property owners. The ad hoc decisions which conventional zoning ordinances frequently necessitate appear to reduce the certainty of protection to neighbors and to increase the potential for adverse impacts. This ordinance contains performance criteria to protect the community's general welfare. Zoning districts are few in number, and each has a clearly different purpose. Distinctions between districts are significant and are based on the Bath Charter Township Comprehensive Development Plan and the data presented in the Southern Clinton County Study. The districts are sized to be adequate to handle long-term needs yet must be monitored relative to any necessary changes or updating as time passes. Where performance criteria severely limits the use of properties, the ordinance has gone to considerable extremes to provide the landowners with a range of choices, flexibility, and options for development.

#### Sec. 2.03. - Commentary.

At various points throughout this ordinance subsections prefaced "Commentary" are included and intended as a statement of finding or purpose. Whenever a section or subsection is considered to require explanation, clarification or further elaboration, it is followed by a commentary. It is intended that by using informal vs. legalistic explanatory text such clarification can be accomplished. The commentaries are to be legislatively adopted together with the more formal text of the ordinance. They are intended as a guide to its administration and interpretation and shall be treated in the same manner as other ordinance elements.

#### Sec. 2.04. - Prohibited land uses.

No land or premises within Bath Charter Township shall be used for any activity not authorized by the laws of this State. Further, it is not the intent of the ordinance from which this section is derived to provide for or authorize dispensaries and/or compassion clubs as defined by section 3.02 of this ordinance as permitted land uses in Bath Charter Township.

(Ord. No. 62, § II, 3-21-2011)

### ARTICLE III. - DEFINITIONS

#### Sec. 3.01. - Construction of language.

The following rules of construction shall apply to the text of this ordinance:

- (1) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases that may have a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.
- (2) The particular shall control the general.
- (3) In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- (4) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (5) When not inconsistent with the context, words in the present tense shall include the future and words in the singular number shall include the plural.
- (6) The word "building" includes the word "structure"; and the word "dwelling" includes the word "residence". A "building" or "dwelling" includes any part thereof.
- (7) The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.
- (8) The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.
- (9) The word "lot" includes the words "plot" and "parcel".
- (10) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either...or", the conjunction shall be interpreted as follows:
  - (a) "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - (b) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - (c) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in

combination.

- (11) Words in the singular number shall include the plural number and words in the plural number shall include the singular number. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- (12) Whenever a reference is made to several sections and the section numbers are connected by the word "to", the reference includes both sections whose numbers are given and all intervening sections.
- (13) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

#### Sec. 3.02. - Definitions.

For the purpose of this ordinance, words pertaining to access, building, property, land use, building use, building measurement, and enforcement shall have the following meaning:

*Accessory building.* A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building; see section 15.09.

*Accessory use.* A use customarily incidental and subordinate to the principal use of the land or building and located on same lot as principal use.

*Accessory tower/structure mounted WECS.* A tower or structure mounted WECS which provides off-the-grid energy sources for site lighting and/or other stand alone site energy needs and may be combined with photo voltaic systems.

*Adult foster care congregate facility.* An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

*Adult foster care facility.* An establishment that provides foster care to adults and is further defined by MCL 400.703(4).

*Adult foster care family home.* A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

*Adult foster care large group home.* An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

*Adult foster care small group home.* An adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

*Agriculture.* Any land or building used for pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry; see *Farm* and section 5.02C.

*Alley.* A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular 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 walls or partitions, columns, beams or girders; or any change which may be referred to herein as "altered" or "reconstructed".

*Alternative tower structure.* Man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

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

*Apartment.* A dwelling unit in a "multiple family dwelling" as defined herein; see *Dwelling, single-family*.

*Automobile repair garage.* A premises where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair; painting and under-coating of automobiles; see section 19.10.

*Backhaul network.* The lines that connect a provider's towers/cell sites to one or more cellular telephone switching office(s), and/or long distance providers, or the public switched telephone network.

*Basement.* That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story; see illustration [at the end of the definition of *structure*].

*Berm.* A man-made, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity; see illustration, page 78, [following section 15.103].

*Block.* The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, stream, or other barrier to the continuity of development.

*Board.* The board of zoning appeals of Bath Charter Township.

*Breezeway.* A covered structure connecting an accessory building with the principal dwelling unit. For purposes of determining yard and area requirements such buildings shall be considered as one integral unit.

*Bufferyard.* A strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them; see sections 14.03 and 14.05.

*Building.* Any structure having a roof supported by columns or walls, for the shelter, support, enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced fire wall(s) extending from the ground up, each part is deemed a separate building, except for minimum side yard requirements as hereinafter provided.

*Building height.* The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall; see illustration [at the end of the definition of *structure*].

*Building line.* A line parallel to the front lot line, which for purposes of this ordinance, a minimum building line is the same as the minimum required front setback line; see illustration [at the end of the definition of *structure*].

*Building, principal.* A building in which is conducted the main or principal use of the lot on which said building is located.

*Carport.* A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.

*Certificate of zoning compliance.* A certificate issued by the zoning administrator to a party or parties intending to initiate any work or change any use of property in the township; see section 21.03.

*Church.* A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

*Club.* An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.

*Commercial.* Commercial refers to commerce and describes an entity that is engaged in business activities.

*Comprehensive development (master) plan.* The statement of policy by the township planning commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written materials representing, in summary form, the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.

*Condominium.* The ownership of a dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, established in conformance with the provisions of the Horizontal Real Property Act, P.A. 229 of 1963 [repealed, see now MCL 559.101 et seq.], as amended.

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

- (1) A Sunday school, a vacation bible school or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12 month period.
- (2) A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.
- (3) Beginning July 1, 2003, a facility or program for school-age children that is operated at a school by a public school or by a person or entity with whom a public school contracts for services, in accordance with section 1285a(2) of the Revised School Code, Public Act No. 451 of 1976 (MCL 380.1285a), if that facility or program has been granted an exemption under subsection (2) of this definition.

*Debilitating medical condition* means the conditions and circumstances provided in Section 3(a) of the Michigan Medical Marihuana Act (MCL 333.26423(a)).

*Decibel.* The unit of measurement used to express the magnitude of sound pressure and sound intensity.

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

*District.* An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations; see [section 4.01](#).

*Driveway.* Vehicle access to a lot from a street which shall be located at least five feet from an adjacent lot line.

*Dwelling.* A detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one or more persons. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this ordinance and shall comply with the provisions herein relative to dwellings.

Garage space, whether in an attached or detached garage shall not be considered as part of a dwelling for meeting area requirements. A dwelling shall comply with the following standards:

- (a) The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- (b) The minimum width across any front, side or rear elevation shall be at least 20 continuous feet of exterior wall.  
*Commentary.* This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least 20 feet.
- (c) The dwelling shall comply in all respects with the Michigan State Construction Code, as promulgated by the Michigan State Construction Code Commission under the provisions of P.A. 230 of 1972 (MCL 125.1501 et seq.), as amended, 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 allow standards of construction which are less stringent than those imposed by building code in effect in township, then in that event, the less stringent township or state standard or regulations shall apply.
- (d) The dwelling shall be placed upon and secured to a permanent foundation in accordance with the Michigan building code. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions, shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- (e) If the dwelling has wheels, towing mechanisms, or under-carriages, they shall be removed.
- (f) The dwelling shall be connected to a public sanitary sewer if such connection is required pursuant to the Bath Charter Township Waste Water Collection and Treatment System Ordinance, and to a public water system if available. Where such connection is not required, private on-site facilities shall be approved by the local health agency prior to use.
- (g) The dwelling shall contain 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 similar to, or of better quality than, the principal dwelling. The storage area required herein shall contain not less than ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (h) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and 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 permanently attached 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 township zoning administrator 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 15 days from the receipt of notice of said zoning administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 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. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contours, or relief from the common or standard designed home.

- (i) The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (j) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 42 CFR 3280 and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (k) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of township pertaining to such parks.

*Dwelling, single-family.* A detached building, designed for or occupied exclusively by one family.

*Dwelling, two-family.* A detached building, designed for or occupied by two families living independently of each other.

*Dwelling, multiple family.* A building used or designed as a residence for three or more families living independently of each other.

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

*Earth sheltered home.* A dwelling which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.

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

*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.* Except as provided in section 19.12D(9), the erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience or welfare, but not including office buildings, substations, or structures which are enclosures or shelters for service equipment or maintenance depots.

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

*FAA.* The Federal Aviation Administration.

*Family:*

- (a) *Family.* An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than two additional unrelated persons,



who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.

(b) *Family, functional.* A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing permanent domestic character, and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, cooperative, lodge, organization, boarders, lodgers, roomers, or foster care home, nor shall it include any group of persons whose association is merely temporary, social, political, commercial or economic in nature; see [section 15.21](#).

(c) *Family, elderly.* One person or two related persons, by blood or marriage, over the age of 62 years and needing some vital supervision by a relative or otherwise, e.g., ECHO housing.

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

*Farm.* See *agriculture*. All agricultural properties subject to Bath Township Zoning Ordinance; agriculture excludes the raising of fur-bearing animals, commercial dog kennels, riding academies, and stone, gravel or sand quarries.

*Fence, permanent.* A barrier of wood, metal, stone, brick and/or vegetation or any manufactured materials erected for permanent enclosure of yard areas.

*Fence, temporary.* Any material of a temporary construction type such as plastic, snow fence, etc., utilizing temporary posts and erected for periods not to exceed six months.

*Filling.* The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

*Flag lot.* A lot which has minimum frontage on a public or private street, which is reached via a private drive or lane and whose width some distance back from the street right-of-way meets all ordinance requirements; see [section 15.20](#).

*Floor area, gross.* The sum of all gross horizontal areas of the several floors of a building or buildings measured from the outside dimensions of the structure. Unenclosed porches, courtyards, or patios, whether covered or uncovered shall not be considered as a part of the gross floor area unless used for commercial purposes such as nursery beds or sales of outdoor equipment; see illustration [at the end of the definition of *structure*].

*Floor area ratio.* An intensity measured as a ratio, derived by dividing the total floor area of a building by the base site area; see [section 14.03](#).

*Floor area, usable.* For purposes of computing parking requirements, is that area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, stairways and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of "usable floor area". Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls; see illustration [at the end of the definition of *structure*].

*Garage, private.* An accessory building, or portion of a principal building, designed or used solely for the storage of non-commercial motor vehicles, boats, and similar items or equipment, and having no public sales or shop services in connection thereof.

*Gasoline service stations.* A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, minor motor repair, or servicing, but not including bumping, painting,

refinishing, or conveyor-type car wash operations; see section 19.10.

*Grade.* A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The building grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

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

*Height.* When referring to a tower or other structure, means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

*Home business.* Home business means a use which includes any activity carried out for gain by a resident on the property on which the resident lives, including manufacturing, services, sales of goods and services made or provided on the premises. The use is intended to allow residents to conduct economic activities on their property at a scale greater than a home occupation but less than a full-scale commercial or industrial enterprise. Home businesses shall also include seasonal businesses.

(1) *New home businesses.*

A home business created after the adoption of this section shall satisfy the following conditions:

- (a) Home businesses may be permitted by special use permit in all zoning districts, except the (P) public land and open space district;
- (b) The home business shall be subject to appendix A, article XX (site plan review), in whole or in part as determined by the planning commission.
- (c) The parcel on which the proposed home business is located shall have a minimum of two acres and contain the principal residential use.
- (d) A home business shall occupy not more than two buildings of which one is the principal residential use.
- (e) The total floor area of a single family dwelling used for a home business shall occupy no more than 25 percent or 800 square feet, whichever is less. The total floor area of a new or existing accessory building used for such business shall not exceed 2,400 square feet.
- (f) No home business accessory building shall be permitted closer than the distance required for the maximum setback in the district in which the home business is located.
- (g) The home business(es) or combination thereof; shall employ or contract no more than three persons total, other than those members of the immediate family residing on the parcel of land on which the home business is located. This excludes employed or contracted persons who do not physically report to the location of the home business.
- (h) There shall be no exterior storage of materials and equipment unless allowed by the special use permit and approved as part of the final site plan, including setbacks from the property line, screening from adjacent land use and location of exterior storage.
- (i) The hours of operation for a home business shall be 7:00 a.m. to 7:00 p.m., Monday through Friday, or as determined by the Planning Commission, and shall be based on maintaining the health, safety and welfare of the adjacent property occupants and the value of adjacent property.

- (j) No home business use, equipment, or process shall be used in such home business which creates noise, vibrations, fumes, odors, or electrical interference which is in violation of the Code of Ordinances of the Charter Township (appendix A, article XIV, section 14.06E).
  - (k) No traffic shall be generated by the home business in greater volumes than would be evaluated by and consistent with the "level of service" (LOS) standard for that street/road. Any need for parking of such business shall be met off the road and shall not be located in the required front yard setback. Parking may occur in an existing drive of sufficient size as determined by the planning commission. All generated parking shall be reasonably screened as required by appendix A, article XX (site plan review). The planning commission may require a traffic study as part of the special use permit review process.
  - (l) In order to protect the residential character of the district, there shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home business, other than signage allowed for home occupations in appendix A, article XVIII.
  - (m) There shall be no exterior lighting, other than that which would normally be expected in a residential environment and shall be regulated by appendix A, article XX, site plan review and article XIV, section 14.06E(6).
  - (n) Retail sales shall be limited to those items that are produced by the home business or are clearly incidental and directly related.
- (2) *Existing home businesses.* Home business uses that existed prior to the adoption of this section and that register during the 12 month registration period are subject to the provisions of appendix A (zoning), article XV (special provisions) and article XVI (nonconforming uses and structures) and chapter 30, article II (nuisances) and article III (junk).
- (a) At the expiration of the 12 month registration end date provided herein, home business uses that did not register will be considered new and shall fully comply with the provisions of this section.

*Home for the aged.* A supervised personal care facility as defined by 1978 PA 368, MCL 333.20106 that does not include a hotel, adult foster care facility, hospital, nursing home or county medical center. A Home for the aged shall consist of no more than one building. The facility provides room, board, and supervised personal care to 21 or more unrelated, non-transient individuals 60 years of age or older. "Home for the aged" includes a supervised personal care facility for 20 or fewer individuals who are 60 years of age or older if the facility is operated in conjunction with and is a distinct part of a nursing home.

*Home occupations.*

- (1) Home occupation means a use carried out for gain conducted entirely within a dwelling unit except for the sale of agricultural commodities produced on the parcel of land where the home occupation is located and which use is clearly incidental and secondary to the use of the dwelling unit for dwelling purposes and does not involve any alteration of the structure or change the character thereof. A garage, whether attached or detached, shall be considered as part of a dwelling unit for the purpose of a home occupation. Home occupation shall specifically include the giving of instruction in crafts or fine arts within the residence. A home occupation shall not create, cause or maintain a nuisance which is offensive or disturbing to adjacent property owners, residents or persons in the area. Home occupations shall satisfy the following conditions:
  - (a) The non-residential use shall only be incidental to the primary residential use.
  - (b) The total floor area of a dwelling unit and/or accessory building used for a home occupation shall occupy no more than 25 percent or 800 square feet, whichever is less.
  - (c) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes,

odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuations in line voltage off the premises.

- (d) The home occupation shall employ no more than one person other than those members of the immediate family residing on the premises.
- (e) The majority of all activities shall be carried on indoors. No visible outdoor storage shall be permitted.
- (f) There shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one announcement sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the principal building; a freestanding sign of two square feet is permitted for houses which are over twice the distance from the road of the standard setback for the respective district; free-standing signs shall be placed no closer than ten feet from the street right-of-way; however, free-standing signs are prohibited in the high density residential and medium density residential districts.
- (g) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (h) The permission for home occupations as provided herein is intended to secure flexibility in the application of requirements of this ordinance, but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.
- (i) Retail sales shall be limited to those items that are produced by the home occupation or are clearly incidental and directly related.

*Inoperable or abandoned motor vehicle.* Any wheeled vehicle which is self-propelled and/or intended to be self-propelled, and which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power. This definition shall not be deemed to include farm machinery other than automobiles or trucks; [see] township ordinance no. 15.

*Junk.* For the purpose of this ordinance the term "junk" shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing or scrap metals or other scrap materials that are damaged or deteriorated; see township ordinance no. 15.

*Junk yard.* Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, machinery or parts thereof; see township ordinance no. 15 and section 19.14.

*Kennel, commercial.* Any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats, or other domestic pets.

*Kennel, private.* Any lot or premises used for the private maintenance of up to four dogs, cats, or other household pets, four months of age or older, not involving any commercial activities. The keeping of more than four animals shall be considered a commercial kennel regardless of ownership or species of animals.

*Livestock.* Animals primarily associated with agriculture or farms - horses, etc., and animals for human consumption, such as cows (dairy or beef), pigs, goats, sheep, and fowl; see *Agriculture* and section 7.04 D.

*Loading space.* An off-street space on the same lot with a building, or group of buildings for temporary parking of a commercial vehicle while loading or unloading merchandise or materials; see section 17.05.

*Lot.* Land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces or yards as are required under this ordinance and having its principal frontage upon a street, or condominium unit which consists of one building and limited common area surrounding the unit.

*Lot area.* The total horizontal area within the lot lines of a lot; see illustration [at the end of the definition of *structure*].

*Lot, corner.* A lot which has at least two contiguous sides abutting upon a street for their full length.

*Lot, depth of.* The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot; depth of the lot shall not exceed three times the width of the lot; this depth to width ratio shall apply to lots of two acres or less.

*Lot, interior.* A lot other than a corner lot.

*Lot line(s).* Any of the lines bounding a lot as defined herein; see illustration [at the end of the definition of *structure*].

- (a) *Front lot line.* In the case of an interior lot, it is that line separating said lot from the street. In the case of a through lot, it is that line separating said lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line, except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.
- (b) *Rear lot line.* That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten 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 lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

*Lot of record.* A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds, Clinton County, Michigan, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the Office of the Register of Deeds, Clinton County, Michigan prior to the adoption of this ordinance.

*Lot, through.* A double frontage lot, not a corner lot, having a street for front and rear lot lines.

*Lot, width.* The straight line horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines; see illustration [at the end of the definition of *structure*].

*Major amendment.* Any amendment to an approved final site plan other than those determined to be minor amendments.

*Major thoroughfare.* An arterial street which is intended to serve as a large volume traffic-way for both the immediate area and the region beyond.

*Marihuana* (also known as marijuana and cannabis) means the substance defined in Section 7106 of the Public Health Code, PA 1978, No. 368 (MCL 333.7106).

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

*Medical use of marihuana* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

*Mining Operation.* A "Mining Operation" shall mean any pit or other excavation for the purpose of searching for, removing, or processing peat, gravel, sand, clay, earth, or other soils, or marble, stone, slate, or other non-metallic mineral in excess of fifty (50) cubic yards in any calendar year, including the overburdening, or the storage or transporting of such items on a quarry

site or gravel pit, or the reclamation of the site after removal or excavation of such items. For the purposes of this Ordinance, the following excavation activities are not included within the definition of a "Mining Operation" and are exempt from the condition use requirements of this Ordinance:

1. Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
2. Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, septic tanks, swimming pools, graves, etc.
3. Excavation in conjunction with farming operations conducted in accordance with generally accepted agricultural practice, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property.
4. Other excavations where the Township Board determines, in its sole discretion, that the proposed excavation is unlikely to unreasonably interfere with the enjoyment of life or property and will not expose any person or property to the types of dangers inherent in the mineral mining sought to be prevented by this Ordinance. The Townships Board's determination may be based on a review of the purpose, location, extent or duration of the proposed excavation and other factors which may bear on the potential of any excavation activity to adversely affect the public health, safety, or general welfare of the community.

*Minor amendment.* Any amendment to an approved site plan meeting the criteria described in Section 20.06.B.(2).

*Mobile home.* A moveable or portable dwelling which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year-round living as a single-family dwelling unit without the necessity for a permanent foundation. The term "mobile home" shall not include pick-up campers, travel trailers, motor homes, converted buses, tent trailers, or other transportable structures designed for temporary use; see [section 19.16](#) and [section 19.19](#).

*Mobile home park.* Any lot, parcel or tract of land under the control or management of any person, occupied or designated for occupancy by more than one mobile home and including any accessory buildings, structures or enclosures comprising facilities used by park residents; see [section 19.16](#).

*Modular (pre-manufactured) housing unit or other structure.* A structure constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation of continuous concrete block or an approved suitable alternative, meeting all codes and regulations applicable to conventional construction.

*Motel.* A series of attached, or detached rental units containing bedroom, bathroom and closet space. Units shall provide for overnight lodging, are offered to the public for compensation, and shall cater primarily to the traveling public. As such, this motel definition would include "bed and breakfast" units.

*Nonconforming building (nonconforming structure).* A building or structure (or portion thereof) lawfully existing at the time of adoption of this ordinance or a subsequent amendment thereto, that does not conform to the provisions of this ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located; see article XVI.

*Nonconforming use.* A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated; see article XVI.

*Nuisance.* Is an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to:

- (a) Noise; see section 15.01;
- (b) Dust;
- (c) Smoke;
- (d) Odor;
- (e) Glare;
- (f) Fumes;
- (g) Flashes;
- (h) Vibration;
- (i) Objectionable effluent;
- (j) Noise of a gathering of people, particularly at night;
- (k) Passing traffic; or
- (l) Invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

*Nuisance, attractive.* A use, practice, structure or condition that meets the criteria as contained in the "classic statement of the doctrine of attractive nuisance" (2 Restatement of Torts, 2d339, p. 167; 76 Mich. App. 137 - June 1977).

*Nursery school (day-care center).* A public or private school, kindergarten or child care facility wherein day-care, or day-care and education is provided for five or more minors.

*Nursing home.* An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

*Open space ratio.* The proportion of a site consisting of required open space as defined and specified in section 14.02, and which shall be calculated using the base site area.

*Open space, required.* The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except as otherwise provided in this ordinance; see setbacks in each zoning district and illustration [at the end of the definition of *structure*].

*Parking space.* An area of not less than 180 square feet in area, exclusive of drives, aisles or entrance giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles; see article XVII.

*Preexisting towers and preexisting antennas.* Any legally existing tower or antenna prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Planned unit development.* A tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses; see section 19.08.

*Planning commission.* The Township Planning Commission of Bath Charter Township.

*Primary caregiver or registered primary caregiver* shall mean a person who has agreed to assist with a registered qualifying patient's medical use of marihuana and who has a valid registry identification card identifying said person as a primary caregiver for that qualifying patient.

*Principal use.* The main use to which the premises are devoted and principal use for which premises exist.

*Public utility.* Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

*Qualifying patient or registered qualifying patient* means a person who has been diagnosed by a physician as having a debilitating medical condition and who has a valid registry identification card issued by the Michigan Department of Community Health which identifies the person as a registered qualifying patient.

*Restaurant, fast food.* An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for the consumption:

- (a) Within the restaurant building;
- (b) Within a motor vehicle parked on the premises; or
- (c) Off the premises as carry-out orders, and whose principal method of operation includes the following characteristics; food and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- (d) For development standards, see section 19.11.

*Restaurant, standard.* An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

- (a) Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed;
- (b) A cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

*Right-of-way.* A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries; see illustration [at the end of the definition of *structure* ].

*Roadside stand.* A structure which is used seasonally for display and sale of agricultural produce. The operation of a roadside stand shall not constitute a commercial use.

*Sanitary landfill.* A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of suitable cover at the conclusion of each day's operation or at more frequent intervals, as necessary and maintained in accordance with the provisions of Act 641 of 1973 [repealed—see now MCL 324.11501 et seq.], as amended; see section 19.15.

*Screen.* A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials; see section 14.05, bufferyards.

*Setback.* The minimum unoccupied distance between the lot line and the principal and accessory buildings, as required herein; see illustration [at the end of the definition of *structure* ].

*Setback, front.* The minimum unoccupied distance, extending the full lot width, between the principal building and the front lot line.



*Setback, rear.* The minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.

*Setback, side.* The minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

*Shadow flicker.* Alternating changes in light intensity caused by the moving blade of a WECS casting shadows on the ground and stationary objects.

*Shopping center.* Is a business or group of businesses which provides a variety of merchandise and/or services which requires a location on a major road and a large parking area to accommodate vehicular traffic. Such a center may be a small neighborhood center, a discount store, or a mall, though this does not limit such use to be one or any of these; see section 19.09.

*Sign.* Any device including words, numerals, figures, designs, pictures or trademarks painted upon or otherwise affixed to a building, wall, board, or any structure, so as to inform or attract attention; see article XVIII.

*Site plan.* A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this ordinance; see article XX.

*Special use permit.* A permit issued by the township board to a person or persons intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this ordinance which possess unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the township's inhabitants; see article XIX.

*Sport shooting range.* An area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

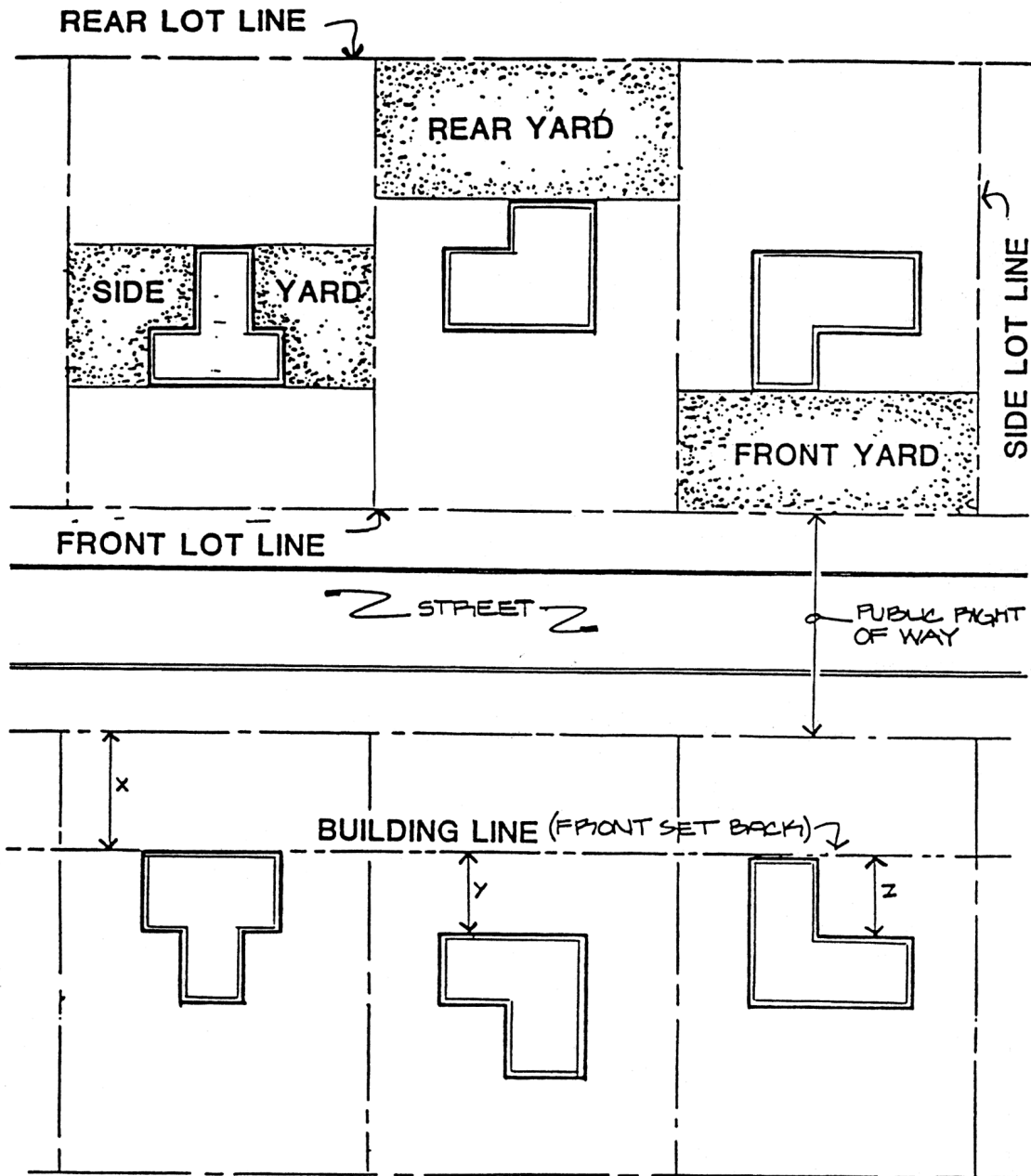
*Stable, riding or boarding.* A facility where more than ten horses for hire, sale or board are kept.

*Story.* That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined, shall not be counted as a story when more than 50 percent by cubic content, is below the height level of the adjoining ground; see illustration [at the end of the definition of *structure*].

*Story, half.* That part of building between a pitched roof and the uppermost full story, said part having finished floor area which does not exceed one-half of the floor area of a full story; see illustration [at the end of the definition of *structure*].

*Street.* A public dedicated right-of-way which affords traffic circulation and principal means of access to abutting property.

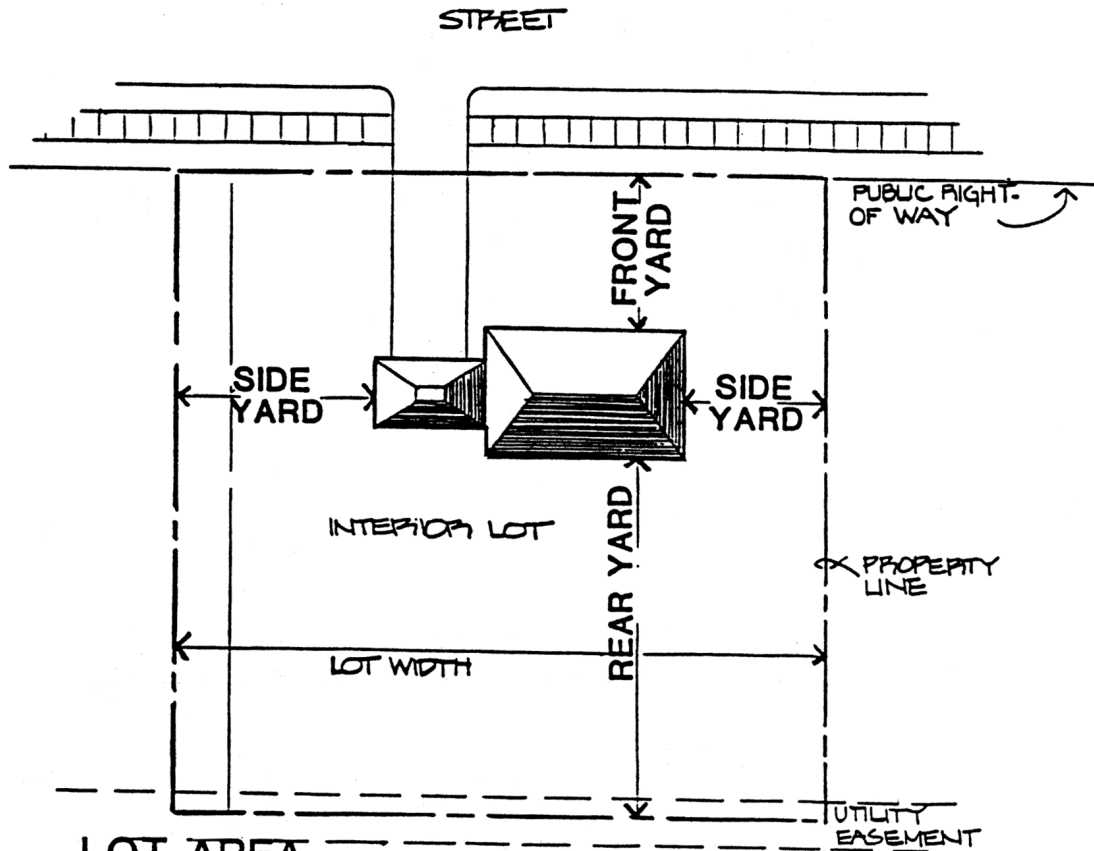
*Structure.* Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground including, but not limited to, all buildings and free-standing signs and not including sidewalks, drives, patios, and utility poles.



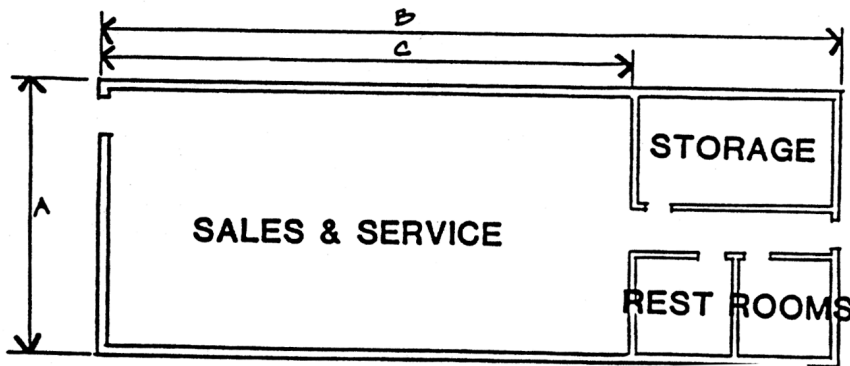
NOTES:

- 1. BUILDING LINE IS MINIMUM SET BACK LINE
- 2. 'X' IS MINIMUM FRONT YARD REQUIRED
- 3. 'Y' IS FRONT YARD IN EXCESS OF THE MINIMUM FRONT YARD REQUIRED.
- 4. 'Z' IS COURT YARD IN EXCESS OF THE MINIMUM FRONT YARD REQUIRED.

BUILDING LINE AND YARDS

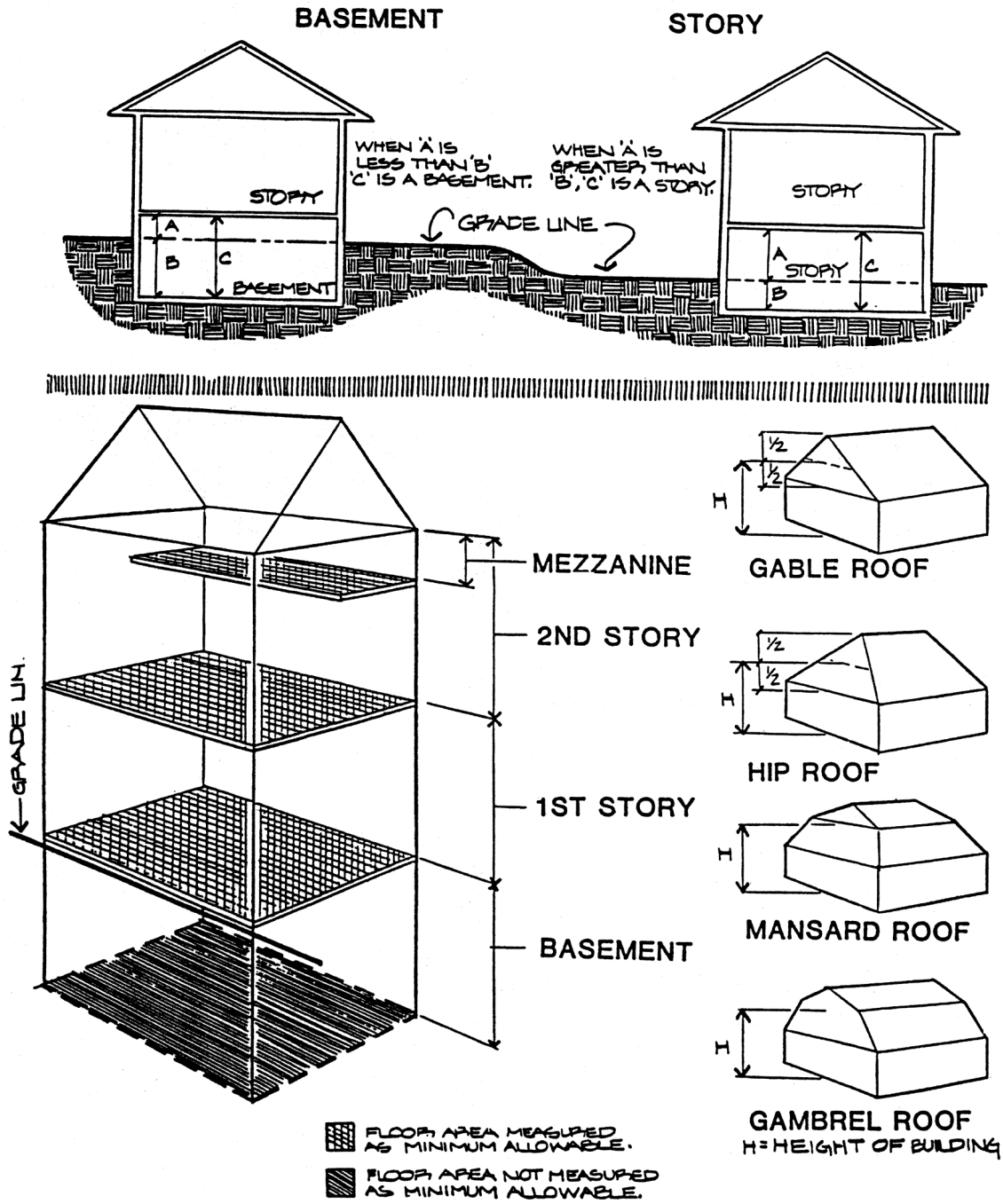


**LOT AREA** = TOTAL HORIZONTAL AREA  
**LOT COVERAGE** = PERCENT OF LOT COVERED BY BUILDING



$A \times B$  = TOTAL FLOOR AREA  
 $A \times C$  = AREA GENERATING TRAFFIC, WHICH SHALL BE USED TO COMPUTE USEABLE FLOOR SPACE FOR WHICH AREA PARKING SHALL BE PROVIDED FOR.

**FLOOR AREA, USEABLE**



## BASIC STRUCTURAL TERMS AND BUILDING HEIGHTS

*Structural alterations.* Any change in the supporting members of a building such as the bearing walls, beams or girders, or any change in the dimension or configuration of the roof or exterior walls; see [section 21.04](#).

*Structure mounted WECS.* A small WECS attached to a principal or accessory building, typically a vertical axis unit and generally limited to 15 feet above the highest point of the structure.

*Subdivision.* The division of a lot, tract, or parcel of land into five or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of sale or building development. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten acres; see [section 14.02](#) (G) and (H) and Bath Township's Subdivision Control Ordinance.

*Township board.* The Bath Charter Township Board of Trustees.

*Tower.* Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

*Tower mounted WECS.* A small or large WECS attached to a monopole tower structure and limited to 45, 70, or 110 feet in height depending on the zoning district in which it is located.

*Usable marihuana* means the dried leaves and flowers of the marihuana plant and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant.

*Utility scale wind energy systems.* A WECS designed and operated specifically to provide electricity off-site to the municipal electric grid system and not the site on which it is located.

*Variance.* A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted; see section 22.05.

*Wind energy conversion system (WECS).* A device or combination of devices, such as free standing towers with wind turbines, structure mounted wind turbines, and all associated facilities and components that convert wind energy to electrical energy.

*Wind energy conversion system, small.* A wind energy conversion system which does not exceed 70 feet in height and which is intended to primarily reduce on-site consumption of utility power. A small WECS may also provide electricity for off-site use and may be structure mounted or tower mounted.

*Wind energy conversion system, large.* A wind energy conversion system which does not exceed 110 feet in height and which is intended to primarily reduce on-site consumption of utility power. A large WECS may also provide electricity for off-site use and would be typically tower mounted.

*Wind energy monitoring station.* Any device which is tower or structure mounted, which is temporary in nature as defined by section 15.26(6), and measures wind data for a specific site.

*Wind energy regulation overlay zoning district.* An overlay zoning district which establishes standards for the development of a utility scale wind energy system and which is an addition to the requirements of the underlying zoning district.

*Yards.* See illustration [at the end of the definition of *structure* ].

- (a) *Yard, front.* An open space extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.
- (b) *Yard, rear.* An open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
- (c) *Yard, side.* An open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.

*Zoning administrator.* The township supervisor, or his authorized representative, charged with the responsibility of administering this ordinance; see article XXI.

(Ord. No. 31.23, §§ 2, 3, 4-11-1998; Ord. No. 31.32, §§ 1, 2, 10-20-2003; Ord. No. 31.37, §§ 3, 4, 4-19-2010; Ord. No. 62, §§ III, IV, 3-21-2011; Ord. No. 31.39, 1-17-2012; Ord. No. 31.52, § 1, 11-7-2016; Ord. No. 31.53, § 2, 12-5-2016; Ord. No. 31.54, § 2, 3-6-2017; Ord. No. 3157, § 1, 10-16-2017; Ord. No. 31.58, §§ 1, 2, 1-16-2018)

**Cross reference**— Definitions generally, § 1-2.

## ARTICLE IV. - ZONING DISTRICTS AND MAP

## Sec. 4.01. - Establishment of districts.

For the purpose of this ordinance, Bath Charter Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

R rural district

D development district

L low-density residential district

M medium-density residential district

HDR high-density residential district

P public lands and open space district

HDD high-density development district

AMOD access management overlay district.

**State Law reference**— District authorized, MCL 125.271.

(Ord. No. 31.38, § I, 11-21-2011)

## Sec. 4.02. - Zoning districts map.

The boundaries of the respective districts enumerated in section 4.01 are defined and established as depicted on the map entitled "Official Zoning Map of Bath Charter Township, Clinton County, Michigan" which is an integral part of this ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this ordinance as if fully described herein. This official zoning map shall be identified by the signature of the township supervisor, attested by the township clerk, and bearing the following: "This is to certify that this is the Official Zoning Map of the Bath Charter Township Zoning Ordinance adopted on the 20th day of December, 1982." If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map after amendment has been approved by the township board together with an entry on the official zoning map as follows: "On (date), by official action of the Township Board, the following changes(s) were made: (brief description with reference number to board proceedings)."

One copy of the official zoning map is to be maintained and kept up-to-date by the township clerk, accessible to the public and shall be the final authority as to the current zoning status of properties in the township.

## Sec. 4.03. - Replacement of official zoning map.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the township board may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The official zoning map shall be identified by the signature of the township supervisor, attested by the township clerk and bear the seal of the township under the following words: "This is to certify that this is the Official Zoning Map, referred to in the Zoning Ordinance of Bath Charter Township, adopted on August 21, 1989, which replaces

and supersedes the Official Zoning Map which was adopted on December 20, 1982." Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. Two copies of the official zoning map are to be maintained and kept up-to-date, one in the township clerk's office, and one in the township hall.

Sec. 4.04. - Interpretation of district boundaries.

Where, due to the scale, lack of details, or illegibility of the official zoning map, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, to the board of zoning appeals. The board, in arriving at a decision on such matters, shall apply the following standards:

- (1) The boundaries of zoning districts are intended to follow centerline of alleys, streets or other rights-of-way, or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are otherwise clearly indicated on the official zoning map.
- (2) Where district boundaries are so indicated that they approximately follow lot of record lines, such lines shall be construed to be boundaries.
- (3) In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions on the zoning map, shall be determined by use of the map scale shown thereon.
- (4) Boundaries indicated as approximately following township limits shall be construed as following township limits.
- (5) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as moving with actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, lakes, or other bodies of water shall be construed to follow such centerline.
- (7) A boundary indicated as parallel to, or an extension of, a feature indicated in section 4.04A through section 4.04G above, the board of zoning appeals shall interpret the district boundaries.
- (8) Where physical or natural features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered by section 4.04A through section 4.04G above, the board of zoning appeals shall interpret the district boundaries.

Sec. 4.05. - Zoning of vacated areas.

Whenever any street, alley or other public way within the township shall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and shall be used for those uses as is permitted under this ordinance for such adjoining lands.

Sec. 4.06. - Zoning of filled land; use of waters.

Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

Sec. 4.07. - Application of district regulations.

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land or buildings and structures throughout each district. Where there are practical difficulties or hardships in the way of carrying out the strict letter of this ordinance, the board of zoning appeals shall have power in passing upon appeals, in accordance with article XXII herein, to vary or modify regulations and provisions of this ordinance so that the intent and purposes of this ordinance shall be observed, public safety secured and substantial justice done.

Sec. 4.08. - Scope of provisions.

- (1) Except as may otherwise be provided in this ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this ordinance shall be subject to all regulations of this ordinance which are applicable in the zoning district in which such use, building, or structure shall be located.
- (2) Uses are permitted by right only if specifically listed as uses permitted by right in the various zoning districts. Where not specifically permitted, uses are thereby prohibited unless construed to be similar to a use expressly permitted by the board of zoning appeals.
- (3) Accessory uses are permitted as indicated for the various zoning districts and if such uses are clearly incidental to the permitted principal uses.
- (4) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety, and welfare of the community.
- (5) No part of a setback area, or other open space, or off-street parking or loading space required about or in connection with any use, building or structure, for the purpose of complying with this ordinance, shall be included as part of a setback area, open space, or off-street parking or loading space similarly required for any other use, building or structure.
- (6) No setback area or lot existing at the time of adoption of this ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established herein.
- (7) No portion of one lot, once established and/or improved with a building or structure shall be sold unless each lot resulting from each such reduction, division, or sale, shall conform with all of the requirements established herein.

Sec. 4.09. - Conflicting regulations.

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

**State Law reference**— Conflict between zoning and other ordinances, MCL 125.298.

ARTICLE V. - RURAL DISTRICT (R)



## Sec. 5.01. - Purpose.

The R rural district is established to protect and generally preserve the existing character and use of those areas of Bath Charter Township which are presently rural or agricultural. Soil and natural conditions vary throughout this district, including substantial wetlands, some woodlots and a few active farms. These areas are considered to be suitable for both rural (predominantly scattered site) residential development and the perpetuation of existing farming or other low intensity uses. Provisions contained within this district support a continuation of its rural character as these sections of the township lack suburban facilities, e.g., sewer, water and a well-developed roadway system. Further, properties in this district are likely to remain without such services for an indefinite period of time, unless there are massive capital expenditures by the township for such services.

*Commentary.* The value of agricultural lands, woodland, wetlands and other resources which characterize this district are important to the quality of air, water, natural cycles - and the local lifestyle. Some areas within the rural district are valuable agriculturally while the majority of the area is less appropriate for farming. Together with the public lands and open space district, these lands provide much of the character that makes Bath Charter Township an attractive place in which to live. The district serves to encourage the orderly transition of land from agricultural or undeveloped use, to low-density residential and prohibits uses incompatible with this objective.

## Sec. 5.02. - Uses permitted by right.

In a R rural district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this ordinance. Performance criteria in excess of those regulations governing yards, lot size and the like, may be specified for certain uses. Such provisions are cross-referenced to other sections herein.

- A. Single-family detached dwellings.
- B. Fowl, rabbits, animals including horses, cows, pigs and other livestock are permitted; provided, they are at all times contained within a structure or fenced area; that the structure and area be maintained in a clean, healthful and inoffensive manner, and further, that the structure and area be located so as to minimize the potentially adverse effects of noise or odors on adjacent properties so as to not create a nuisance.
- C. Agricultural or horticultural activities on parcels of land of five acres or more, including general and specialized farming and related activities but not limited to:
  - (1) Dairying.
  - (2) Raising of grain, grass, mint and seed crops.
  - (3) Orchards.
  - (4) Apiculture (beekeeping).
  - (5) Floriculture (cultivation of ornamental flowering plants).
  - (6) Raising of tree fruits, nuts and berries.
  - (7) Sod farming.
  - (8) Raising or growing of ornamental trees, shrubs and nursery stock, including retail sales on the premises.
  - (9) Vegetable raising.
  - (10) Greenhouses.
- D. Public and private conservation areas and structures for the development, protection and conservation of open space, watersheds, water, soil, forests, and wildlife resources.
- E. Religious institutions including churches, convents, parsonages and other housing for religious personnel; see

section 14.06.

- F. Educational institutions including public or private elementary and secondary schools, nursery schools and day care centers; see section 14.09.
- G. Public or private recreational facilities of a noncommercial nature, including parks, playgrounds, camps, parkways and similar recreational facilities; see section 14.06.
- H. Public buildings and public service installations, including municipal, administrative or public service buildings, utility and public service facilities and uses, excluding storage yards, transformer stations and substations; see section 14.06.
- I. Cemeteries; see section 14.06.
- J. Family day care homes.
- K. Reserved.
- L. Adult foster care family homes.

(Ord. No. 31.30, § 5.02, 5-20-2002; Ord. No. 31.59, § 1, 1-16-2018)

**State Law reference—** Mandatory permitted uses, MCL 125.286a, 125.286g.

Sec. 5.03. - Permitted accessory uses.

The following are permitted accessory uses:

- A. Home occupation; see section 3.02.
- B. Signs; see sections 18.03 and 18.04.
- C. Accessory structures normally associated with single-family dwellings, such as a private garage, shed for yard tools, playhouse, boathouse, woodshed, sauna, and the like.
- D. Swimming pools.
- E. Automobile parking.
- F. Pens or enclosures for household pets.
- G. Accessory uses or structures, clearly incidental to the operation of an existing farm, including:
  - (1) Barns, silos, sheds, equipment storage and similar structures customarily incidental to the permitted principal use and structures.
  - (2) One roadside stand for the sale of farm produce, specialty crops such as tree fruits, nuts, berries and the like, or foodstuffs made from such produce, providing it is raised on the property.
- H. Activities typically associated with the actions or functions of individual members, participating in organizations such as 4-H, Future Farmers of America and the like.
  - I. Adult foster care small group home.
  - J. Adult foster care large group home.

(Ord. No. 31.30, § 5.03, 5-20-2002; Ord. No. 31.37, § 5, 4-19-2010)

**State Law reference—** Mandatory home occupations, MCL 125.271a.

Sec. 5.04. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in this district, by the application for and the issuance of a special use permit as provided for in article XIX.

- A. Accessory apartment or "ECHO" (Elderly Cottage Housing Opportunities) housing.
- B. Commercial recreational facilities, including golf courses, race tracks, motorcycle hill-climbing sites, go-cart tracks and/or similar establishments.
- C. Gun clubs or commercial sport shooting ranges.
- D. Game preserves or commercial hunting and fishing operations.
- E. Primitive or improved campsites and/or overnight trailer or travel trailer parks.
- F. The removal of soil, sand, gravel and other materials; and the installation of equipment to assist in removal of said materials, or production of asphalt mix.
- G. Private airports or landing fields.
- H. Sewage treatment and disposal installations.
  - I. Public or private sanitary landfills or junkyards.
  - J. Commercial free-standing towers, exceptions provided in section 19.12.
- K. Storage yards, transformer stations, substations, microwave relay towers and similar facilities associated with public service uses or facilities.
- L. Commercial riding or boarding stables for the hiring, selling, or boarding of ten or more horses; see section 3.02(99).
- M. Veterinarian's offices, commercial kennels and animal clinics.
- N. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis, including:
  - (1) Corn shelling.
  - (2) Hay baling and threshing.
  - (3) Sorting, grading and packing fresh (unprocessed) fruits and vegetables.
  - (4) Grain cleaning.
  - (5) Land grading and excavation.
  - (6) Harvesting and plowing, including custom work operations.
- O. Facilities for bulk feed, seed or fertilizer sales, storage or mixing.
- P. Auction sale barns.
- Q. Farm equipment sales, service or repair.
- R. Planned unit development.
- S. Expanded agricultural home occupations. The seasonal production and sales of primary, on-site agricultural products with the secondary production and/or sales of related agricultural goods and services which meet the following requirements:
  - (1) The primary agricultural products are grown on site.
  - (2) The secondary agricultural goods and services are clearly incidental to the primary agricultural products.
  - (3) The applicant shall file a preliminary site plan with the special use permit application, which meets the requirements of article XX.

- (4) The expanded agricultural home occupation shall meet the general home occupation requirements of section 3 and h.
- (5) The expanded agricultural home occupation shall meet all building code, health code, and other applicable regulations.
- (6) The expanded agricultural home occupation shall be clearly seasonal in nature and shall be limited to a maximum of 180 days per year or a lesser time specified by the planning commission.

T. Home businesses; see section 3.02.

U. Group day care homes.

(Ord. No. 31.23, § 4, 4-11-1998, Ord. No. 31.28, 8-21-2000; Ord. No. 31.37, § 6, 4-19-2010; Ord. No. 31.52, § 2, 11-7-2016; Ord. No. 31.59, § 2, 1-16-2018)

**State Law reference**— Mandatory special uses, MCL 125.286a, 125.286g.

Sec. 5.05. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the R rural district.

- A. *Minimum lot area.* No building or structure shall be established on any parcel less than two acres.
- B. *Minimum lot width.* The minimum lot width shall be 200 feet.
- C. *Maximum lot coverage.* The maximum lot coverage shall not exceed 20 percent.
- D. *Yard and setback requirements:*
  - (1) Front yard: Fifty feet.
  - (2) Side yard: Twenty feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
  - (3) Rear yard: Fifty feet.
  - (4) In any case, no permanent or temporary structure housing livestock, or for storage of manure, shall be located any closer than 100 feet to a lot line.
- E. *Maximum height requirements.* No residential (non-farm) structure shall exceed three stories or 35 feet, measured from the average finished grade at the front setback line. Residential (non-farm) accessory buildings shall not exceed a height of 20 feet.
- F. *Minimum building floor area.* Every dwelling hereafter erected shall have a minimum gross foundation space per dwelling unit of not less than 750 square feet, exclusive of basements, garages, porches and breezeways.

ARTICLE VI. - DEVELOPMENT DISTRICT (D)

Sec. 6.01. - Purpose.

The D development district is intended to accommodate most of the anticipated non-residential growth in Bath Charter Township during the next 20 years. The D district will provide for a residential environment dominated by moderate density development (in terms of the hierarchy of zoning districts) including single-family detached dwellings in platted subdivisions as well as alternative residential types. Further, it provides for limited commercial, industrial and institutional uses in accordance with specified performance criteria. To be excluded, however, are uses of a high density, intensity of land use or of major non-

residential character. The intent is that this district will provide the zoning flexibility and incorporate those existing (and proposed) capital improvements necessary to attract development. Land within this district will generally be located adjacent to major thoroughfares and within areas of the township containing or expected to contain public sewer and/or water facilities. Therefore, it consists of areas where development should logically be attracted, due to deliberate decisions regarding support infrastructure.

*Commentary.* The development district is designed to minimize the costs of extending or expanding public services. It is a planned, logical accommodation of growth intended to serve areas suitable for development and to avoid unsuitable areas. Uses that would be characterized as being of high density or intensity rather than suburban have been excluded as have heavy industrial uses. Likewise, uses that are so extensive in scale as to be of regional significance are excluded because they require specialized evaluation and locational considerations. Unlike conventional zoning districts which segregate various land uses, the development district allows varied uses and places the emphasis on minimizing or buffering any nuisance factors between such uses. The segregation of uses has never provided adequate protection, especially at the edges of use districts. The provisions contained herein anticipate the likelihood and desirability of mixing land uses and imposes criteria to resolve any possible problems and eliminate what might be negative impacts where unlike land uses are located in close proximity.

#### Sec. 6.02. - Uses permitted by right.

In the D development district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this ordinance. Performance criteria in excess of those regulations governing yards, lot size and the like, may be specified for certain uses. Such provisions are cross-referenced to other sections herein.

- A. Single-family detached dwellings.
- B. Performance subdivision; see section 14.06.
- C. Two-family dwellings (duplexes); see section 14.06.
- D. Multifamily dwellings (apartments) with not more than eight units per building; see section 14.06.
- E. Religious institutions including churches, convents, parsonages and other housing for religious personnel; see section 14.06.
- F. Educational institutions including public or private elementary and secondary schools, nursery schools and day care centers; see section 14.06.
- G. Public or private recreational facilities of a non-commercial nature, including parks, playgrounds, camps, parkways and similar recreational facilities; see section 14.06.
- H. Public buildings and public service installations including municipal, administrative or public service buildings, utility and public service facilities and uses, excluding storage yards, transformer stations and substations; see section 14.06.
- I. General offices.
- J. Office establishments which perform services on the premises, including but not limited to:
  - (1) Financial institutions.
  - (2) Insurance offices.
  - (3) Real estate offices.
  - (4) Offices for attorneys, accountants, architects, engineers and similar professionals.
  - (5) Photographic studios.

- (6) Other office establishments similar to and compatible with the above establishments; see section 14.06.
- K. Professional service establishments providing human health care, on an out-patient basis; see section 14.06.
- L. Establishments customarily related to medical and dental uses when located in a medical or dental building or complex and when intended primarily to serve the occupants of the building or complex in which they are located; including but not limited to:
  - (1) Pharmacies.
  - (2) Medical, dental and optical laboratories.
  - (3) Stores offering supportive or corrective garments and prosthetic appliances.
  - (4) Other establishments similar to and compatible with the above establishments; see section 14.06.
- M. Miscellaneous business service establishments:
  - (1) Consumer credit reporting agencies.
  - (2) Mailing list and stenographic services.
  - (3) Business management consulting services.
  - (4) Duplicating services.
  - (5) Other establishments similar to and compatible with the above establishments; see section 14.06.
- N. Offices of non-profit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations, political organizations; see section 14.06.
- O. Retail establishments, such as groceries, fruit, meats, dairy products, produce, baked goods and alcoholic beverages, stores selling drugs, hardware, novelties and gifts, flowers, books, stationery, tobacco and sundry small household articles; see section 14.06.
- P. Office or convenience commercial uses located in a structure originally erected for residential purposes, provided commercial structure standards of township building code are complied with; see section 14.06.
- Q. Adult foster care family homes.
- R. Medical marihuana primary caregiver facility.

(Ord. No. 31.30, § 6.03, 5-20-2002; Ord. No. 62, § V, 3-21-2011; Ord. No. 31.58, § 3, 1-16-2018)

**State Law reference**— Mandatory permitted uses, MCL 125.286a, 125.286g.

Sec. 6.03. - Permitted accessory uses.

The following are permitted accessory uses:

- A. Those accessory uses permitted under section 7.03.
- B. Any structural or mechanical use customarily incidental to the permitted principal use.
- C. Signs, subject to the regulations established in article XVIII.
- D. Off-street parking, as required and subject to the regulations established in article XVII.

Sec. 6.04. - Uses permitted by special use permit.

The following uses of land and structure[s] may be permitted in this district by the application for and the issuance of a special use permit as provided for in article XIX.

- A. Multifamily dwellings (apartments) containing more than eight units per building;

- B. Mobile home park or subdivision.
- C. General retail establishments whose principal activity is the sale of new merchandise to the public. These include such establishments as household appliance stores, furniture stores, department or variety stores, drug stores, hardware stores, clothing stores, specialty stores selling flowers, books, stationery, jewelry, novelties and gifts, tobacco, and sundry small household articles; convenience stores selling fruit, meat, dairy products, produce, and alcoholic beverages, and other retail establishments similar to and compatible with the above.
- D. Non-manufacturing research and development establishment[s], including:
  - (1) Laboratories, offices and other facilities for research, both basic and applied, conducted by or for any individual organization or concern.
  - (2) Production of prototype products, limited to the scale necessary for full investigation of the merits of the product.
- E. Wholesale, truck terminals, and warehousing: Wholesale, truck terminals or warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, beer, wine and distilled alcoholic beverages, paper and paper products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this district, also storage or transfer buildings, commercial laundries or cleaning establishments and frozen food lockers.
- F. Industrial establishments, including:
  - (1) The assembly, fabrication, compounding, packaging manufacture or treatment of such articles as food products, candy, drugs, cosmetics and toiletries, musical instruments, toys, novelties, electrical instruments and appliances, radios and phonographs, pottery and figurines or other similar ceramic products using only previously pulverized clay.
  - (2) The assembly, fabrication, compounding, packaging, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiberglass, leather, paper, plastics, precious or semi-precious metals or stones, sheet metal, ferrous or non-ferrous metals, shell, textiles, wax, wire, wood (excluding saw and planing mills), and paint.
  - (3) Tool and die shops, metal working machine shops involving the use of grinding or cutting tools, such as manufacturing tools, dies, jigs and fixtures, publishing, printing, or forming of box, carton, and cardboard products.
- G. Planned research and/or industrial parks.
- H. Auto service stations.
  - I. Drive-in restaurants.
  - J. Auto repair garages.
  - K. Junk yards.
  - L. Restaurants.
- M. Motels.
- N. Those special uses as listed in section 7.04.
- O. Retail sales typically incidental to contractor's establishments which require a workshop and retain outlet or show room as accessory uses, including:
  - (1) Plumbing and electrical contractors.
  - (2) Building material suppliers and wholesalers such as lumber yards and other similar uses.

- (3) Carpenter shops including door, sash or trim manufacturing.
  - (4) Jobbing and repair machine shops.
  - (5) Plastic products forming and molding.
  - (6) Printing and publishing.
  - (7) Trade and industrial schools.
  - (8) Air conditioning and heating dealers including incidental sheet metal work.
  - (9) Sign painting establishments.
  - (10) Establishments producing and selling monuments, cut stone, stone and similar products.
- P. Light industry.
  - Q. Automatic vehicle wash and self vehicle wash facilities.
  - R. Vehicle, travel trailer, farm implement, construction equipment, and related equipment display and sales.
  - S. Planned unit development.
  - T. Outdoor storage.
  - U. Adult foster care small group home.
  - V. Adult foster care large group home.
  - W. Adult foster care congregate facilities.
  - X. Daycare center (commercial child care).
  - Y. Home businesses; see section 3.02.
  - Z. Horses may be housed on a lot of eight acres or more. There shall be only one animal on the first eight acres and there shall be an additional acre for each additional horse up to four horses. Horses shall meet the standards in section 19.20, horses in non-agricultural areas of the township. If the keeping of horses should become offensive in sight or odor, due to the poor care of horses or the horses housing, pasture, or pens, they shall be declared a nuisance; see section 3.02 (nuisance and nuisance, attractive) and section 15.01.

(Ord. No. 31.30, § 6.04, 5-20-2002; Ord. No. 31.37, § 7, 4-19-2010; Ord. No. 31.40, § 2, 3-19-2012)

#### Sec. 6.05. - Site development standards.

The following maximum and minimum standards apply to all uses and structures in the D development district.

##### A. *Minimum lot area:*

- (1) Single-family detached dwellings shall require a minimum parcel size of not less than 20,000 square feet of lot area.
- (2) All other permitted uses shall require a minimum parcel size of one acre in area.

##### B. *Minimum lot width:*

- (1) Single-family detached dwelling: 100 feet.
- (2) All other uses: 200 feet.

##### C. *Maximum lot coverage.* The maximum lot coverage shall not exceed:

- (1) Single-family detached dwelling: 25 percent.
- (2) All other uses: 40 percent.

##### D. *Yard and setback requirements:*



- (1) Front yard: 50 feet.
- (2) Side yard: Ten feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
- (3) Rear yard: 30 feet.
- E. *Maximum height requirements.* No structure shall exceed three stories or 35 feet measured from the average finished grade at the front setback line. Residential accessory buildings shall not exceed a height of 20 feet.
- F. *Minimum building floor area:*
  - (1) *Single-family detached or two-family dwellings:* Every dwelling hereafter erected shall have a minimum gross foundation space per dwelling unit of not less than 750 square feet, exclusive of basements, garages, porches and breezeways.
  - (2) *Multiple family dwelling.* The minimum gross living space in a multiple family dwelling shall be provided in accordance with the following schedule:

|                    |                   |
|--------------------|-------------------|
| Efficiency         | 400 square feet   |
| One-bedroom unit   | 600 square feet   |
| Two-bedroom unit   | 800 square feet   |
| Three-bedroom unit | 1,000 square feet |

Sec. 6.06. - Other requirements.

For those uses other than single-family detached and two-family dwellings, the following provisions shall be met:

- A. All lighting shall be installed and maintained in such a manner as to confine the illumination source/direct rays to the property upon which the use is located and such that no direct rays, glare or illumination shall adversely affect the welfare of an adjacent property.
- B. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter.
- C. Heating, ventilation or air condition (HVAC) units, heating oil storage tanks or similar appurtenances shall be properly screened.

ARTICLE VI.A. - D DEVELOPMENT DISTRICT OVERLAY ZONE

Sec. 6A.01. - Intent and purpose.

- A. The D development district overlay zone is intended to establish additional urban design, residential density standards, and traffic access management techniques within a mixed use environment to create innovate land development patterns which cannot be achieved through traditional zoning regulations. The geographic location of

the D development district overlay zone shall be in conformance with the recommendations of the Bath Charter Township Comprehensive Development Plan.

- B. The D development district overlay zone is further intended to:
1. Encourage innovative design approaches which promote mixed land use neighborhoods such as neotraditional planning techniques;
  2. Encourage higher density residential development patterns adjacent to commercial services and infrastructure systems;
  3. Encourage higher quality landscaping, signage, and lighting systems;
  4. Encourage traffic access management techniques, which minimize traffic conflicts, establish uniform access standards, and require coordination among adjacent landowners.

(Ord. No. 31.26, § 1, 5-15-2000)

Sec. 6A.02. - Location of the D development district overlay zone.

- A. The D development district overlay zone shall be located in the following specific area(s):

Commencing at the Southeast corner of Section 36, T5N, R2W, DeWitt Township, Clinton County, Michigan; thence N00°08'35"W 330.00 feet along the East line of said section to the point of beginning; thence N89°34'17"W 1325.53 feet along the South line of the North  $\frac{3}{4}$  of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said section 36; thence N00°12'54"W 659.21 feet along the West line of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said section; thence N89°35'41"W 1326.35 feet along the South line of the North of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said section 36; thence N00°17'13"W 329.56 feet along the North-South  $\frac{1}{4}$  line of said section; thence S89°41'23"E 1326.74 feet along the North line of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said section; thence N00°12'54"W 1317.50 feet along the West line of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said section; thence N00°12'46"W 330.00 feet; thence S89°39'31"E 272.80 feet parallel with the South line of the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said section; thence S00°08'40"E 330.00 feet parallel with the East line of said section; thence S89°39'31"E 1056.00 feet along the North line of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said section to the East line of said Section; thence S00°08'35"E 1610.46 feet along the East line of said section; thence S89°51'25"W 250.00 feet; thence S00°08'35"E 300.00 feet; thence N89°51'25"E 250.00 feet to the East line of said section; thence S00°08'35"E 400.00 feet along the East line of said section to the point of beginning. Containing 80.76 acres, more or less.

- B. The D development district overlay zone shall be shown on the Bath Charter Township Zoning Map.

(Ord. No. 31.26, § 2, 5-15-2000)

Sec. 6A.03. - Uses permitted by right.

In the D development district overlay zone, the principal permitted land uses and accessory uses shall meet the requirements of the D development district section 6.02.

(Ord. No. 31.26, § 3, 5-15-2000)

Sec. 6A.04. - Uses permitted by special use permit.

In the D development district overlay zone, the land uses permitted by special use permit shall meet the requirements of section 6.04 with the exception of section 6.04 B, E, F, H, I, J and K.

(Ord. No. 31.26, § 4, 5-15-2000)

## Sec. 6A.05. - Procedures.

In addition to the requirements of article XXIV (amendments), the following procedures shall apply to an application for a D development district overlay zone:

- A. *Preapplication conference.* The applicant shall meet with the designated Bath Charter Township staff to outline the proposed objectives of the development and review the requirements of the zoning ordinance.
- B. *Sketch plan conference.* The applicant shall meet with the planning commission to outline the proposed development and present sketch concepts for review and comment.
- C. *Preliminary site plan.* The applicant shall submit a preliminary site plan (section 20.03) to the planning commission, which describes how the D development district overlay zone requirements will be complied with. This preliminary site plan shall be included as part of the rezoning application as required by article XXIV.
- D. *Rezoning application.* The D development district overlay zone shall be created upon approval by Bath Charter Township in conformance with the requirements of article XXIV.
- E. *Final site plan review.* The proposed development shall receive final site plan approval from the planning commission prior to the issuance of a building permit within a D development district overlay zone. The final site plan shall meet the requirements of article XX and shall also meet the overlay zone site development standards as identified in section 6.

## Sec. 6A.06. - Overlay zone site development standards.

The following minimum and maximum site development standards shall apply to all uses and structures in the D development district overlay zone.

- A. *Site design performance objectives.* Site design for all development within the D development overly district shall meet the performance objectives for planned unit developments [(section 19.08B.(4)].
- B. *Maximum height requirements.* No structure shall exceed three stories or 35 feet measured from the average finished grade at the front setback line. Accessory structures shall not exceed 20 feet. The Bath Charter Township Board of Trustees may allow structures which exceed the maximum height requirements if fire suppression and other public safety concerns can adequately be addressed.
- C. *Density.* The maximum residential density shall not exceed 18 units per net acre. Net acre equals gross acreage minus the area for public right-of-way, wetland, floodplain, and non-residential uses.
- D. *Minimum building floor area.* The requirements of section 6.05 F shall be met.
- E. *Traffic access management plan.* The applicant shall be required to submit a traffic access management plan as part of the final site plan documents. The traffic access management plan shall be prepared by a registered traffic engineer with documented professional experience in traffic access management. The traffic access management plan shall accomplish the following objectives:
  1. Minimize disruptive and potentially hazardous traffic conflicts thereby reducing the frequency of fatal, injury and property damage accidents.
  2. Separate traffic conflict areas by reducing the number of direct access points.
  3. Provide efficient spacing standards between access points and between access points and intersections.
  4. Establish uniform access standards to ensure fair and equal application.
  5. Implement the goals of the Bath Charter Township Comprehensive Development Plan.
  6. Protect the substantial public investment in the roadway system by preserving capacity and avoiding the

need for unnecessary and costly reconstruction.

7. Plan and utilize a coordinated service drive system where appropriate.
  8. Require coordinated access among several landowners.
  9. Ensure reasonable access to properties, though the access may not always be direct access.
  10. Provide for a coordinated review process through the Clinton County Road Commission and local governmental jurisdictions.
- F. *Landscape, screening and buffering plan.* The following landscape, screening, and buffering standards shall apply:
1. All landscape plans shall be required to provide type E bufferyard requirements as described by section 14.05 of the Bath Charter Township Zoning Ordinance. The type E bufferyard requirements may be modified by the planning commission during site plan review.
  2. All off-street parking areas shall be screened with a type E bufferyard requirement as described in section 14.05 of the Bath Charter Township Zoning Ordinance. The type E bufferyard requirement may be modified by the planning commission during site plan review.
  3. All surface parking areas shall provide, on the interior of the surface parking area, 200 square feet of ground cover, deciduous trees, and shrubs for each ten parking spaces provided. The planning commission may modify this requirement based on total site impact.
- G. *Urban design features plan.* The applicant shall submit to the planning commission an urban design features plan which addresses those design features and development characteristics which Bath Charter Township believes to be critical to the economic vitality, aesthetic compatibility, and the quality of life within the D development district overlay zone. The urban design features plan shall, in a coordinated manner, address the following design elements:
1. Building elevations.
  2. Architectural features (structural facades and walls, roof pitch and roof material, porches, railings, and balconies).
  3. Landscaping, screening and buffering.
  4. Parking.
  5. Signage.
  6. Mechanical, electrical equipment and public utility structures.
  7. Banners and flags.
  8. Exterior lighting.
  9. Temporary structures and shelters.
  10. Loading docks and service areas.
  11. Pedestrian circulation.
- H. *Solid waste management plan.* The applicant shall submit to the planning commission for review and approval a detailed description of the solid waste management procedures for the proposed development. The solid waste management plan shall address the following three functions:
1. A detailed description of the solid waste collection system to be utilized.
  2. A detailed description of the required recycling procedures to be utilized.
  3. A graphic description of the solid waste collection system and recycling system to be utilized.

(Ord. No. 31.26, § 6, 5-15-2000)

## ARTICLE VII. - LOW-DENSITY RESIDENTIAL DISTRICT (L)

### Sec. 7.01. - Purpose.

The L low-density residential district is intended for application in those areas of Bath Charter Township where a noticeable amount of low-density, single-family residential development has occurred. While some large-lot subdivisions exist in this district, the majority of the residential growth has resulted via on-going individual lot splits. The L district is designed to accommodate residential opportunities for those who desire exurban residential living and are willing to assume the costs of providing many of their own services. Further, this district contains several large land holdings, owned by one individual or party of interest, which are strategically located relative to future residential expansion. For the individual lot split type of residential development, it is reasonable to require spacious lots, insuring a safe, potable water supply and treatment of waste water on the same lot, considering the excessive cost of extending public sewer or water to virtually any area of the township. For the larger, unified developments, such facilities will be necessary and this district includes properties to which such services could be readily provided.

*Commentary.* This district complements the development district in that it houses a specific segment of the population, those who desire exurban or suburban residential living. The use characteristics reflect this orientation; unlike the rural district, this district is expected to be subject to higher intensities of development in the future. It is intended to be built-up as growth occurs in the township, while the rural district is anticipated to remain predominantly vacant for the foreseeable future.

### Sec. 7.02. - Uses permitted by right.

In the L low-density residential district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this ordinance. Performance criteria in excess of those regulations governing yards, lot size and the like, may be specified for certain uses. Such provisions are cross-referenced to other sections herein.

- A. Single-family detached dwellings.
- B. Performance subdivision; see section 14.06.
- C. Religious institutions including churches, convents, parsonages, and other housing for religious personnel; see section 14.06.
- D. Educational institutions including public or private elementary and secondary schools, nursery schools and day care centers; see section 14.06.
- E. Public or private recreational facilities of a noncommercial nature, including parks, playgrounds, camps, parkways and similar recreational facilities; see section 14.06.
- F. Public buildings and public service installations, including municipal, administrative or public service buildings, utility and public service facilities and uses, excluding storage yards, transformer stations and substations; see section 14.06.
- G. Cemeteries; see section 14.06.
- H. Family day care homes.
- I. Reserved.
- J. Adult foster care family homes.

(Ord. No. 31.30, § 7.02, 5-20-2002; Ord. No. 31.59, § 1, 1-16-2018)

**State Law reference**— Mandatory permitted uses, MCL 125.286a, 125.286g.

Sec. 7.03. - Permitted accessory uses.

The following are permitted accessory uses:

- A. Home occupation; see section 3.02(48).
- B. Signs; see section 18.03 and 18.04.
- C. Accessory structures normally associated with single-family dwellings.
- D. Swimming pools.
- E. Automobile parking.
- F. Pens or enclosures for household pets.
- G. Raising and keeping of chickens as permitted in chapter 10, section 10-2(b) in the Code of Ordinances.

**State Law reference**— Mandatory home occupations, MCL 125.271a.

(Ord. No. 31.41, § 2, 3-19-2012)

Sec. 7.04. - Uses permitted by special use permit.

The following uses of land and structure[s] may be permitted in this district by the application for and the issuance of a special use permit as provided for in article XIX.

- A. Planned unit development; see section 19.08.
- B. Condominiums of any type.
- C. Accessory apartment or "ECHO" (Elder Cottage Housing Opportunities) housing.
- D. "Livestock." Except to raise and keep chickens as provided in 7.03 G animals, defined as livestock, may be housed on a lot of two acres or more. For horses, cows, or pigs, there shall be only one animal on the first two acres and there shall be an additional acre for each additional animal housed or pastured; for smaller animals, including fowl, good husbandry practices shall be followed. Fowl shall be cooped and penned. If the keeping of livestock should become offensive in sight or odor, due to the poor care of livestock or the livestock's housing, pasture, or pens, they shall be declared a nuisance; see section 3.02 (nuisance and nuisance, attractive) and section 15.01.
- E. Commercial recreational facilities including golf courses, country clubs, and similar recreational facilities.
- F. Subject to the provisions of section 19.12, storage yards, transformer stations, substations, microwave relay towers and similar facilities associated with public service uses or facilities.
- G. Adult foster care small group home.
- H. Adult foster care large group home.
- I. Home businesses; see section 3.02.
- J. Group day care homes.

(Ord. No. 31.23, § 5, 4-11-1998; Ord. No. 31.30, § 7.04, 5-20-2002; Ord. No. 31.37, § 8, 4-19-2010; Ord. No. 31.41, § 3, 3-19-2012; Ord. No. 31.59, § 2, 1-16-2018)

**State Law reference**— Mandatory special uses, MCL 125.286a, 125.286g

## Sec. 7.05. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the L low-density residential district.

- A. *Minimum lot area.* No building or structure shall be established on any parcel less than:
  - (1) Thirty thousand square feet in lot area for on-site sewage disposal.
  - (2) Twenty thousand square feet in lot area for those lots connected to a public sanitary sewer system.
- B. *Minimum lot width.* The minimum lot width shall be:
  - (1) One hundred fifty feet for lots containing 30,000 square feet or more, in lot area.
  - (2) One hundred feet for lots containing less than 30,000 square feet in lot area.
- C. *Maximum lot coverage.* The maximum lot coverage shall not exceed 25 percent.
- D. *Yard and setback requirements:*
  - (1) Front yard: 50 feet.
  - (2) Side yard: Ten percent of lot width for each side yard, except in the case of a corner lot where the side yard on the street side shall not be less than setback required for front yard.
  - (3) Rear yard: 50 feet.
  - (4) In any case, no permanent or temporary structure housing livestock, or for storage of manure, shall be located any closer than 100 feet to a lot line.
- E. *Maximum height requirements.* No residential structure shall exceed three stories or 35 feet measured from the average finished grade at the front setback line. Residential accessory buildings shall not exceed a height of 20 feet.
- F. *Minimum building floor area.* Every dwelling hereafter erected shall have a minimum gross foundation space per dwelling unit of not less than 750 square feet, exclusive of basements, garages, porches and breezeways.

## ARTICLE VIII. - MEDIUM-DENSITY RESIDENTIAL DISTRICT (M)

## Sec. 8.01. - Purpose.

The M medium-density residential district is intended to acknowledge those areas within the township wherein more densely populated residential neighborhoods as well as diversified commercial and service businesses may occur. By maintaining sectors of the township for medium intensity usage, the full range of public facilities, e.g., sewer, water, police and fire protection, can generally be focused within a limited area of extent. By optimization of in-place facilities and services, the fiscal burden of expanding such elements can be reduced. This district is also intended as a transition zone between the H and L districts.

The M district allows some variance in uses, but emphasizes development of a strong residential base surrounding and supporting the H or high-density residential district. Once again, the use of performance criteria will be employed to minimize or buffer any negative factors where unlike land uses are located in close proximity to each other.

## Sec. 8.02. - Uses permitted by right.

In the M district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in the ordinance. Performance criteria in excess of those regulations governing yards, lot size, and the like, may be specified for certain uses. Such provisions are cross-referenced to other provisions herein.

- A. Single-family detached dwellings.
- B. Performance subdivision; see section 14.06.
- C. Two-family dwellings (duplexes) [see section 14.06].
- D. (Reserved for future use).
- E. Religious institutions including churches, convents, parsonages and other housing for religious personnel; see section 14.06.
- F. Educational institutions including public or private elementary and secondary schools, nursery schools and day care centers; see section 14.06.
- G. Public buildings and public service installations including municipal, administrative or public service buildings, utility and public service facilities and uses, excluding storage yards, transformer stations and substations; see section 14.06.
- H. Family day care homes.
- I. Reserved.
- J. Adult foster care family homes.

(Ord. No. 31.30, § 8.02, 5-20-2002; Ord. No. 31.59, § 1, 1-16-2018)

**State Law reference**— Mandatory permitted uses, MCL 125.286a, 125.286g.

Sec. 8.03. - Permitted accessory uses.

The following are permitted accessory uses:

- A. Those accessory uses permitted under section 7.03.
- B. Any structural or mechanical use customarily incidental to the permitted principal use.
- C. Signs, subject to the regulations established in article XVIII.
- D. Off-street parking, as required and subject to the regulations established in article XVII.

Sec. 8.04. - Uses permitted by special use permit.

The following uses of land and structure may be permitted in this district by the application for and the issuance of a special use permit as provided for in article XIX.

- A. Planned unit development (PUD); see section 19.08.
- B. Multifamily dwellings; see section 14.06.
- C. Planned shopping center; see section 19.09.
- D. Mobile home park; see section 19.16.
- E. Accessory apartment or "ECHO", (Elderly Cottage Housing Opportunities) housing.
- F. Commercial recreational facilities including golf courses, country clubs, and similar recreational facilities.
- G. Subject to the provisions of section 19.12, storage yards, transformer stations, substations, microwave relay towers,



and similar facilities associated with public service uses or facilities.

- H. Adult foster care small group home.
- I. Adult foster care large group home.
- J. Home businesses; see section 3.02.
- K. Horses may be housed on a lot of four acres or more. There shall be only one animal on the first four acres and there shall be an additional acre for each additional horse up to four horses. Horses shall meet the standards in section 19.20, horses in non-agricultural areas of the township. If the keeping of horses should become offensive in sight or odor, due to the poor care of horses or the horses housing, pasture, or pens, they shall be declared a nuisance; see section 3.02 (nuisance and nuisance, attractive) and section 15.01.
- L. Adult foster care congregate facility.
- M. Home for the aged.
- N. Group day care homes.

(Ord. No. 31.23, § 6, 4-11-1999; Ord. No. 31.30, § 8.04, 5-20-2002; Ord. No. 31.37, § 9, 4-19-2010; Ord. No. 31.40, § 3, 3-19-2012; Ord. No. 31.54, § 3, 3-6-2017; Ord. No. 31.59, § 2, 1-16-2018)

**State Law reference**— Mandatory special uses, MCL 125.286a, 125.286g.

#### Sec. 8.05. - Site development standards.

The following maximum and minimum standards apply to all uses and structures in the M district, unless otherwise specified under section 14.03, district performance standards.

##### A. *Minimum lot area:*

- (1) *With sewer.* No building or structure shall be established on any parcel less than 12,000 square feet of lot area.
- (2) *Without sewer.* No building or structure shall be established on any parcel less than 20,000 square feet of lot area.

##### B. *Minimum lot width:*

- (1) *With sewer.* The minimum lot width shall be 80 feet.
- (2) *Without sewer.* The minimum lot width shall be 100 feet.

##### C. *Maximum lot coverage.* The maximum lot coverage shall not exceed 40 percent.

##### D. *Yard and setback requirements:*

- (1) *Front yard.* The required front yard shall not be less than 25 feet or equal to the established setback line.
- (2) *Side yard.* Ten feet, except in the case of a corner lot, where the side yard on the street side shall not be less than the setback required for the front yard.
- (3) *Rear yard.* Forty feet.

##### E. *Maximum height requirements.* No structure shall exceed three stories or 35 feet measured from the average finished grade at the front setback line. Residential accessory buildings shall not exceed a height of 20 feet.

##### F. *Minimum building floor area:*

- (1) *Single-family detached or two-family dwellings.* Every dwelling hereafter erected shall have a minimum gross foundation space per dwelling unit of not less than 750 square feet, exclusive of basements, garages, porches, and breezeways.
- (2) *Multiple-family dwelling.* The minimum gross living space in a multiple-family dwelling shall be provided in

accordance with the following schedule:

|                    |                   |
|--------------------|-------------------|
| Efficiency         | 400 square feet   |
| One-bedroom unit   | 600 square feet   |
| Two-bedroom unit   | 800 square feet   |
| Three-bedroom unit | 1,000 square feet |

(3) *Adult foster care facilities, homes for the aged, and nursing homes.* The principal building shall have a minimum gross floor area of 500 square feet per adult, excluding employees and/or caregivers. Each single-occupancy bedroom shall have a minimum of 80 square feet of usable floor area. Each multiple-occupancy bedroom shall have a minimum of 70 square feet of usable floor area per person with a maximum of four beds and four persons per bedroom.

(Ord. No. 31.34, § 4, 11-21-2005; Ord. No. 31.54, § 4, 3-6-2017)

Sec. 8.06. - Other requirements.

For those uses other than single-family detached and two-family dwellings, the following provisions shall be met:

- A. All lighting shall be installed and maintained in such a manner as to confine the illumination source/direct rays to the property upon which the use is located and such that no direct rays, glare or illumination shall adversely affect the welfare of an adjacent property.
- B. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter.
- C. Heating, ventilation or air condition (HVAC) units and heating oil storage tanks or similar appurtenances shall be properly screened.

ARTICLE IX. - HIGH-DENSITY DEVELOPMENT DISTRICT (HDD)

Sec. 9.01. - Purpose.

The high-density residential district is intended to acknowledge those areas within the township wherein exist the most densely populated residential neighborhoods as well as diversified commercial and service businesses. This district will enhance the "community focal point" quality of these areas and is intended to foster full utilization of all buildings and spaces within them. By maintaining sectors of the township for higher intensity usage, the full range of public facilities, e.g., sewer, water, police and fire protection, can generally be focused within a limited area of extent. By optimization of in-place facilities and services the fiscal burden of expanding such elements can be reduced.

*Commentary.* The high-density residential district represents those properties in the so-called "Village or Park Lake" areas of Bath Charter Township that, due to past development decisions, or in specific, past zoning district changes, presently contain either commercial businesses or a business zoning category. The H district is to be surrounded by supporting residential

neighborhoods with some measure of population base. Scattered zoning configurations will be combined to add to the cohesiveness of the zoning map and this particular district. Again, the use of performance criteria will be employed to minimize or buffer any negative factors where unlike land uses are located in close proximity to each other.

Sec. 9.02. - Uses permitted by right.

In the high-density residential district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this ordinance. Performance criteria in excess of those regulations governing yards, lot size and the like, may be specified for certain uses. Such provisions are cross-referenced to other provisions herein.

- A. Single-family detached dwellings.
- B. Performance subdivision; see section 14.06.
- C. Two-family dwellings (duplexes); see section 14.06.
- D. Multifamily dwellings (apartments); see section 6.02D.
- E. Religious institutions including churches, convents, parsonages and other housing for religious personnel; see section 14.06.
- F. Educational institutions including public or private elementary and secondary schools, nursery schools and day care centers; see section 14.06.
- G. Public or private recreational facilities of a non-commercial nature, including parks, playgrounds, camps, parkways and similar recreational facilities; see section 14.06.
- H. Public buildings and public service installations including municipal, administrative or public service buildings, utility and public service facilities and uses, excluding storage yards, transformer stations and substations; see section 14.06.
- I. Office establishments which perform services on the premises, including but not limited to:
  - (1) Financial institutions.
  - (2) Insurance offices.
  - (3) Real estate offices.
  - (4) Offices for attorneys, accountants, architects, engineers and similar professionals.
  - (5) Photographic studios.
  - (6) Other office establishments similar to and compatible with the above establishments; see section 14.06.
- J. Professional service establishments providing human health care, on an out-patient basis; see section 14.06.
- K. Establishments customarily related to medical and dental uses when located in a medical or dental building or complex and when intended primarily to serve the occupant of the building or complex in which they are located; including but not limited to:
  - (1) Pharmacies.
  - (2) Medical, dental and optical laboratories.
  - (3) Stores offering supportive or corrective garments and prosthetic appliances.
  - (4) Other establishments similar to and compatible with the above establishments; see section 14.06.
- L. Miscellaneous business service establishments:
  - (1) Consumer credit reporting agencies.

- (2) Mailing list and stenographic services.
  - (3) Business management consulting services.
  - (4) Duplicating services.
  - (5) Other establishments similar to and compatible with the above establishments; see section 14.06.
- M. Offices of non-profit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations, political organizations; see section 14.06.
- N. General office or professional office uses.
- O. Banks, savings and loan associations and other financial or lending institutions.
- P. Retail establishments marketing convenience goods only, such as groceries, fruit, meats, dairy products, produce, baked goods and alcoholic beverages, stores selling drugs, hardware, novelties and gifts, flowers, books, stationery, tobacco, and sundry small household articles; see section 14.06.
- Q. Retail sales typically incidental to contractor's establishments which require a workshop and retail outlet or showroom as accessory uses, including:
- (1) Plumbing and electrical contractors.
  - (2) Building material suppliers and wholesalers such as lumber yards and other similar uses.
  - (3) Carpenter shops including door, sash or trim manufacturing.
  - (4) Jobbing and repair machine shops.
  - (5) Plastic products forming and molding.
  - (6) Printing and publishing.
  - (7) Trade and industrial schools.
  - (8) Air conditioning and heating dealers including incidental sheet metal work.
  - (9) Sign painting establishments.
- R. Food service establishments; including grocery, meat market, supermarket, bakeries, delicatessen, ice cream stores and other food service establishments similar to and compatible with the above.
- S. Personal service establishments; including barber shop, beauty parlor, tailor shop, shoe repair, dress maker, photographic studio and other personal service establishments similar to and compatible with above.
- T. Other service establishments; that include an office, showroom, workshop or a retail adjunct, such as that occupied by an electrician, decorator, painter, upholsterer, a business performing radio, television or home appliance repair or other service establishments similar to and compatible with the above.
- U. Boutiques or establishments operated expressly for the sale of art, antiques, collectibles, and similar merchandise.
- V. General retail establishments whose principal activity is the sale of new merchandise to the public. These include such establishments as household appliance stores, furniture stores, department or variety stores, drug stores, hardware stores, clothing stores, specialty stores selling flowers, books, stationery, jewelry, novelties and gifts, tobacco, and sundry small household articles; convenience stores selling fruit, meat, dairy products, produce, and alcoholic beverages, and other retail establishments similar to and compatible with the above; see section 14.06.
- W. Mortuaries and funeral homes; see section 14.06.
- X. Office or commercial uses located in a structure originally erected for residential purposes, provided all commercial structure standards of the local building code are complied with; see section 14.06.

- Y. Non-manufacturing research and development establishment, including:
- (1) Laboratories, offices and other facilities for research, both basic and applied, conducted by or for any individual, organization or concern.
- Z. Medical marihuana primary caregiver facility. A registered primary caregiver desiring to grow and harvest medical marihuana outside his or her primary residence may locate the medical marihuana primary caregiver facility in the D development district, subject to the site development standards set forth in section 6.05, and the HDD high density development district, subject to the site development standards set forth in section 9.05, and the following additional conditions (which shall be applicable to both districts):
- (1) The medical marihuana primary caregiver facility shall be located in a secure, locked, fully enclosed structure located outside of a radius of 500 feet from any school, including child day care facilities, church, or drug rehabilitation facility or another medical marihuana primary caregiver facility.
  - (2) Each parcel or lot shall be limited to one medical marihuana primary caregiver facility conducted by one primary caregiver.
  - (3) Medical marihuana within the medical marihuana primary caregiver facility shall be limited to the number of plants and the amount of usable marihuana permitted by the Michigan Medical Marihuana Act for each registered qualifying patient identified as receiving assistance from the registered primary caregiver, plus an amount which may be legally possessed by the registered primary caregiver, if said primary caregiver is also a registered qualified patient.
  - (4) The structure used for growing medical marihuana shall contain only the marihuana belonging to the registered primary caregiver or said caregiver's registered qualified patients, and shall not exceed the amount authorized by the Michigan Medical Marihuana Act.
  - (5) The grow facility shall at all times be secured and locked and shall be accessible only by the registered primary caregiver.
  - (6) Medical marihuana primary caregiver facilities shall be subject to the requirements of building, electrical, plumbing, and fire prevention code requirements of Bath Charter Township.
  - (7) Lighting utilized for growing medical marihuana shall not be visible from the exterior of the building.
  - (8) No sign or advertising of any kind shall be permitted on the exterior of the structure or on the property.
  - (9) Access to a medical marihuana primary caregiver facility is prohibited through any other business. Access to the medical marihuana primary caregiver facility shall be through an exterior door only, and interior access to adjoining buildings and/or structures from the medical marihuana primary caregiver facility is prohibited.

(Ord. No. 62, § V, 3-21-2011; Ord. No. 31.58, § 4, 1-16-2018)

**State Law reference**— Mandatory permitted uses, MCL 125.286a, MCL 125.286g.

Sec. 9.03. - Permitted accessory uses.

The following are permitted accessory uses:

- A. Those accessory uses permitted in section 8.03.
- B. Any structural or mechanical use customarily incidental to the permitted principal use.
- C. Signs, subject to the regulations established in article XVIII.
- D. Off-street parking, as required and subject to the regulations established in article XVII.

## Sec. 9.04. - Uses permitted by special use permit.

The following uses of land and structure may be permitted in this district by the application for and the issuance of a special use permit as provided for in article XIX.

- A. Multifamily dwellings (apartments) containing more than eight units per building.
- B. Planned shopping center.
- C. Condominiums of any type.
- D. Automobile service stations.
- E. Automatic and self-service carwash establishments.
- F. Commercial garages.
- G. Theaters, restaurants, bars, night clubs and other similar entertainment facilities, where the patrons are seated or served while seated within a building.
- H. Amusement enterprises; if conducted wholly within an enclosed building.
  - I. Hotels, motels and motor hotels.
  - J. Retail lumber yard; building material sales yard.
  - K. Auto parts, tire, battery and accessory dealers.
  - L. Open air businesses; such as retail sales of nursery stock, lawn furniture, garden supplies and the like, provided any storage area is fenced or otherwise enclosed.
- M. Temporary outdoor uses or sales, incidental to the business conducted on the premises.
- N. Motor vehicles(s), boat, motor home and camper; sales, rental and display outdoors.
- O. Wholesale and warehousing: wholesale selling or warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, beer, wine and distilled alcoholic beverages, paper and paper products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this district; also storage or transfer buildings, commercial laundries or cleaning establishments and frozen food lockers; see section 14.06.
- P. Outdoor storage.
- Q. Planned unit development.
- R. Drive-in restaurants, retail or service establishments.
- S. Bump shops or automobile repair garages, doing general automobile repair work, including body and fender work, painting and upholstery.
- T. Accessory apartment or "ECHO" (Elderly Cottage Housing Opportunities) housing.
- U. Adult foster care small group home.
- V. Adult foster care large group home.
- W. Adult foster care congregate facilities.
- X. Daycare center (commercial child care).
- Y. Home businesses; see section 3.02.
- Z. Horses may be housed on a lot of eight acres or more. There shall be only one animal on the first eight acres and there shall be an additional acre for each additional horse up to four horses. Horses shall meet the standards in section 19.20, horses in non-agricultural areas of the township. If the keeping of horses should become offensive

in sight or odor, due to the poor care of horses or the horses housing, pasture, or pens, they shall be declared a nuisance; see section 3.02 (nuisance and nuisance, attractive) and section 15.01.

(Ord. No. 31.30, § 9.04, 5-20-2002; Ord. No. 31.37, § 10, 4-19-2010; Ord. No. 31.40, § 4, 3-19-2012)

**State Law reference**— Mandatory special uses, MCL 125.286a, 125.286g.

Sec. 9.05. - Site development standards.

The following maximum and minimum standards apply to all uses and structures in the high-density residential district, unless otherwise specified under section 14.03, district performance standards.

- A. *Minimum lot area.* No building or structure shall be established on any parcel comprised of less than 6,000 square feet of lot area, other than a single-family detached dwelling on a lot of record in existence prior to November 27, 2005.
- B. *Minimum lot width.* The minimum lot width shall be 60 feet.
- C. *Maximum lot coverage.* The maximum lot coverage shall not exceed 50 percent.
- D. *Yard and setback requirements:*
  - (1) *Front yard.* The required front yard shall not be less than 25 feet or equal to the established setback line.
  - (2) *Side yard.* Six feet, except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
  - (3) *Rear yard.* Twenty-five feet.
- E. *Maximum height requirements.* No structure shall exceed three stories or 35 feet measured from the average finished grade at the front setback line. Residential accessory buildings shall not exceed a height of 20 feet.
- F. *Minimum building floor area:*
  - (1) *Single-family detached or two-family dwellings.* Every dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than 750 square feet, exclusive of basements, garages, porches, and breezeways.
  - (2) *Multiple-family dwelling.* The minimum gross living space in a multiple-family dwelling shall be provided in accordance with following schedule:

|                    |                   |
|--------------------|-------------------|
| Efficiency         | 400 square feet   |
| One-bedroom unit   | 600 square feet   |
| Two-bedroom unit   | 800 square feet   |
| Three-bedroom unit | 1,000 square feet |

(Ord. No. 31.34, § 5, 11-21-2005)

Sec. 9.06. - Other requirements.

- A. All lighting shall be installed and maintained in such a manner as to confine the illumination source/direct rays to the portion upon which the use is located and such that no direct rays, glare or illumination shall adversely affect the welfare of an adjacent property.
- B. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter.
- C. Heating, ventilation or air condition (HVAC) units, heating oil storage tanks or similar appurtenances shall be properly screened.

#### ARTICLE X. - HIGH-DENSITY RESIDENTIAL DISTRICT (HDR)

##### Sec. 10.01. - Purpose.

The high-density residential district is intended to acknowledge those geographic areas within the township that are higher density residential areas. An example of this geographic area is the park lake residential area. Concentration of higher density residential areas will recognize existing, traditional land use patterns as well as concentrating the provision of a full range of utilities and services.

##### Sec. 10.02. - Uses permitted by right.

- A. Single-family detached dwellings.
- B. Performance subdivision.
- C. Two-family dwellings.
- D. Religious institutions.
- E. Educational institutions.
- F. Public buildings.
- G. Home occupations.
- H. Family day care homes.
- I. Reserved.
- J. Adult foster care family homes.

(Ord. No. 31.30, § 10.02, 5-20-2002; Ord. No. 31.32, § 4, 10-20-2003; Ord. No. 31.59, § 1, 1-16-2018)

**State Law reference**— Mandatory home occupations, MCL 125.271a; mandatory permitted uses, MCL 125.286a, 125.286g.

##### Sec. 10.03. - Permitted accessory uses.

- A. Those accessory uses permitted in 9.03.
- B. Any structural or mechanical use customarily incidental to the permitted principle use.

##### Sec. 10.04. - Uses permitted by special use permit.

- A. Multifamily dwellings of any type.
- B. Accessory apartment or "ECHO" [Elderly Cottage Housing Opportunities] housing.
- C. Planned unit development.
- D. Public or private recreational facilities.



- E. Adult foster care small group home.
- F. Adult foster care large group home.
- G. Adult foster care congregate facilities.
- H. Home businesses; see section 3.02.
- I. Horses may be housed on a lot of eight acres or more. There shall be only one animal on the first eight acres and there shall be an additional acre for each additional horse up to four horses. Horses shall meet the standards in section 19.20, horses in non agricultural areas of the township. If the keeping of horses should become offensive in sight or odor, due to the poor care of horses or the horses housing, pasture, or pens, they shall be declared a nuisance; see section 3.02 (nuisance and nuisance, attractive) and section 15.01.
- J. Group day care homes.

(Ord. No. 31.30, § 10.04, 5-20-2002; Ord. No. 31.37, § 11, 4-19-2010; Ord. No. 31.40, § 5, 3-19-2012; Ord. No. 31.59, § 2, 1-16-2018)

**State Law reference**— Mandatory, special uses, MCL 125.286a, 125.286g.

Sec. 10.05. - Site development standards.

The following maximum and minimum standards apply to all uses and structures in the high-density residential district, unless otherwise specified under section 14.03, district performance standards.

*Minimum lot area.* No building or structure shall be established on any parcel comprised of less than 6,000 square feet of lot area, other than a single-family detached dwelling on a lot of record in existence prior to November 27, 2005.

- A. *Minimum lot width.* The minimum lot width shall be 60 feet.
- B. *Maximum lot coverage.* The maximum lot coverage shall not exceed 50 percent.
- C. *Yard and setback requirements:*
  - (1) *Front yard.* The required front yard shall not be less than 25 feet or equal to the established setback line.
  - (2) *Side yard.* Six feet, except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
  - (3) *Rear yard.* 25 feet.
- D. *Maximum height requirements.* No structure shall exceed three stories or 35 feet measured from the average finished grade at the front setback line. Residential accessory building shall not exceed a height of 20 feet.
- E. *Minimum building floor area:*
  - (1) *Single-family detached or two-family dwellings.* Every dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than 750 square feet, exclusive of basements, garages, porches, and breezeways.
  - (2) *Multiple-family dwelling.* The minimum gross living space in a multiple-family dwelling shall be provided in accordance with the following schedule:

|                  |                 |
|------------------|-----------------|
| Efficiency       | 400 square feet |
| One-bedroom unit | 600 square feet |
| Two-bedroom unit | 800 square feet |

|                    |                   |
|--------------------|-------------------|
| Three-bedroom unit | 1,000 square feet |
|--------------------|-------------------|

(3) *Adult foster care facilities, nursing homes.* The principal building shall have a minimum gross floor area of 500 square feet per adult, excluding employees and/or caregivers. Each single-occupancy bedroom shall have a minimum of 80 square feet of usable floor area. Each multiple-occupancy bedroom shall have a minimum of 70 square feet of usable floor area per person with a maximum of four beds and four persons per bedroom.

(Ord. No. 31.34, § 6, 11-21-2005; Ord. No. 31.54, § 5, 3-6-2017)

Sec. 10.06. - Other requirements.

- A. All lighting shall be installed and maintained in such a manner as to confine the illumination source/direct rays to the property upon which the use is located and such that no direct rays, glare or illumination shall adversely affect the welfare of an adjacent property.
- B. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter.
- C. Heating, ventilation or air condition (HVAC) units, heating oil storage tanks or similar appurtenances shall be properly screened.

ARTICLE XI. - PUBLIC LANDS AND OPEN SPACE DISTRICT (P)

Sec. 11.01. - Purpose.

The P public lands and open space district is intended to acknowledge the extensive publicly owned properties that presently exist with the township. Such a district applies to only those properties that are used or authorized for public and quasi-public use, in tax exempt status, are reserved open space or public recreation, all distinct from the standard residential and non-residential zoning classifications. The P district is therefore contingent upon ownership designation as opposed to a conventional zoning approach. Public lands as herein defined qualify for inclusion in this zone.

*Commentary.* The substantial public lands within Bath Charter Township pose a two-edged sword; while it means that many acres are reserved from taxation and future development, these same properties provide the open space and natural amenities that shape the community's character. The regulations contained herein are designed to promote land usage and development that are compatible with the preservation of natural amenities and open space areas and to regulate those items that would tend to detract from or negatively affect their natural character or adjoining properties.

(Ord. No. 31.32, § 5, 10-20-2003)

Sec. 11.02. - Uses permitted by right.

In the P public lands and open space district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this ordinance. Performance criteria in excess of those regulations governing yards, lot size and the like may be specified for certain uses. Such provisions are cross-referenced to other provisions herein.

- A. Public conservation areas and structures for the development, protection and conservation of open space, watershed soil, forests and wildlife resources.
- B. Religious institutions including churches, convents, parsonages and other housing for religious personnel; see section 14.06.
- C. Educational institutions including public elementary and secondary schools; see section 14.06.
- D. Public recreational facilities of a non-commercial nature, including parks, playgrounds, camps, centers, parkways and similar recreational facilities; see section 14.06.
- E. Public buildings and public service installations, including federal, state or municipal, administrative or public service buildings, public service facilities and uses; see section 14.06.
- F. Public cemeteries; see section 14.06.
- G. Wildlife research centers.

(Ord. No. 31.32, § 5, 10-20-2003)

Sec. 11.03. - Permitted accessory uses.

The following are permitted accessory uses:

- A. Accessory uses or structures, clearly incidental to any of the above permitted uses.

(Ord. No. 31.32, § 5, 10-20-2003)

Sec. 11.04. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in this district, by the application for and the issuance of a special use permit as provided for in article XIX.

- A. Other uses not specifically mentioned in section 10.02 [11.02] of a public or open space nature.

(Ord. No. 31.32, § 5, 10-20-2003)

Sec. 11.05. - Site development standards.

The development standards and requirements shall be those as specified within the district said use is located, unless superseded by the provisions of the public lands and open space district.

(Ord. No. 31.32, § 5, 10-20-2003)

ARTICLE XII. - OPEN SPACE PRESERVATION OVERLAY ZONING DISTRICT

Sec. 12.01. - Purpose.

The open space preservation overlay zoning district is intended to provide innovative options for creation of open space residential communities and the promotion of open space preservation within certain residential zoning districts consistent with Public Act No. 177 of 2001 (MCL 125.286h) which cannot be achieved through traditional zoning regulations. The open space preservation overlay zoning district is further intended to:

- (1) Assure the permanent preservation of open space, agricultural lands, and other natural resources which are compatible with the comprehensive development plan;
- (2) Allow innovation and greater flexibility in the design of residential open space communities;
- (3) Facilitate the provision and maintenance of residential infrastructure in a more efficient and economical manner;
- (4) Ensure the design compatibility between adjacent properties and reduce residential sprawl.

(Ord. No. 31.32, § 7(12.01), 10-20-2003)

Sec. 12.02. - Exercise of option for open space preservation.

For the R rural residential, L low-density residential, and M medium-density residential zoning districts which permit residential development at a density of not more than two units per acre or not more than three units per acre if public sanitary sewer is available, the legal entity authorized to initiate an amendment as identified in section 24.02 of the Bath Charter Township Zoning Ordinance may request the creation of an open space preservation overlay district pursuant to this section. The open space preservation overlay zoning district shall require a minimum of 50 percent of the land area to remain in an undeveloped state.

- A. The property owner shall exercise the open space preservation option as described in this section in writing to the zoning administrator and shall include a legal description of the proposed open space preservation overlay zoning district.
- B. Upon the exercise of the open space preservation option, a rezoning application must be filed with the township which meets the requirement of article XXIV (Changes and Amendments) of this chapter.
- C. Applications for the creation of an open space preservation overlay zoning district shall be granted, provided that they meet the requirements of this section and article XXIV of this chapter.

(Ord. No. 31.32, § 7(12.02), 10-20-2003)

Sec. 12.03. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural land* means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage; inside crops; grains; feed crops; field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and similar uses and activities.

*Conservation easement* means that term as defined in section 2140 of the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994 (MCL 324.2140).

*Greenway* means a contiguous or linear open space, including habitats, wildlife corridors and trails, that link parks, nature preserves, cultural features or historic sites with each other for recreation and conservation purposes.

*Undeveloped state* means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to, the use of the public.

(Ord. No. 31.32, § 7(12.03), 10-20-2003)

**Cross reference**— Definitions generally, § 1-2.

Sec. 12.04. - Standards for an open space preservation overlay zoning district.

In addition to the standards established in the existing underlying zoning district, the proposed open space preservation overlay zoning district must provide that:

- A. A minimum of 50 percent of the land area described as open space preservation overlay zoning district shall perpetually remain in an undeveloped state;
- B. The proposed residential development shall not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this section would have depended upon such an extension;
- C. The open space preservation option as described by this section has not been previously exercised with respect to the land in question;
- D. The total number of dwelling units permitted within the open space preservation overlay zoning district shall not exceed the maximum number of dwelling units permitted by the existing underlying zoning district;
- E. Existing land uses on the property prior to the establishment of an open space preservation overlay zoning district which are proposed to remain shall be incorporated into the design of the development and shall meet all of the minimum standards of this section;
- F. Residential developments within open space preservation overlay zoning districts shall be required to meet the requirements of article XX (Site Plan Review) of this chapter and the applicant must receive final site plan approval under article XX of this chapter, prior to development of properties which have been approved as an open space preservation overlay zoning district;
- G. Residential development shall not occur within an open space preservation overlay zoning district unless and until the property owner thereof shall record an irrevocable conservation easement, plat, site condominium, restrictive covenant, or other legal means that is satisfactory to the township, which restriction shall run with the land and which shall mandate that the designated open space will perpetually remain in an undeveloped state.

(Ord. No. 31.32, § 7(12.04), 10-20-2003)

Sec. 12.05. - Site standards.

The underlying zoning district site standards may be adjusted in the open space preservation overlay zoning district as follows:

- A. Residential lot site or parcel size may be reduced to 25 percent of the underlying zoning district requirements;
- B. Front, side and rear setbacks may be reduced to 50 percent of the underlying zoning district requirements.

(Ord. No. 31.32, § 7(12.05), 10-20-2003)

Sec. 12.06. - Dedication of the open space to the public.

The township may consider acceptance of a public dedication of the open space preservation area, but shall not be required to do so, and such dedication shall not be required as a condition of granting the open space preservation option described in this article.

(Ord. No. 31.32, § 7(12.06), 10-20-2003)

ARTICLE XIII. - MARSH ROAD/I-69 INTERCHANGE, M-78 ACCESS MANAGEMENT OVERLAY ZONING DISTRICT

Sec. 13.01. - Intent and purpose.

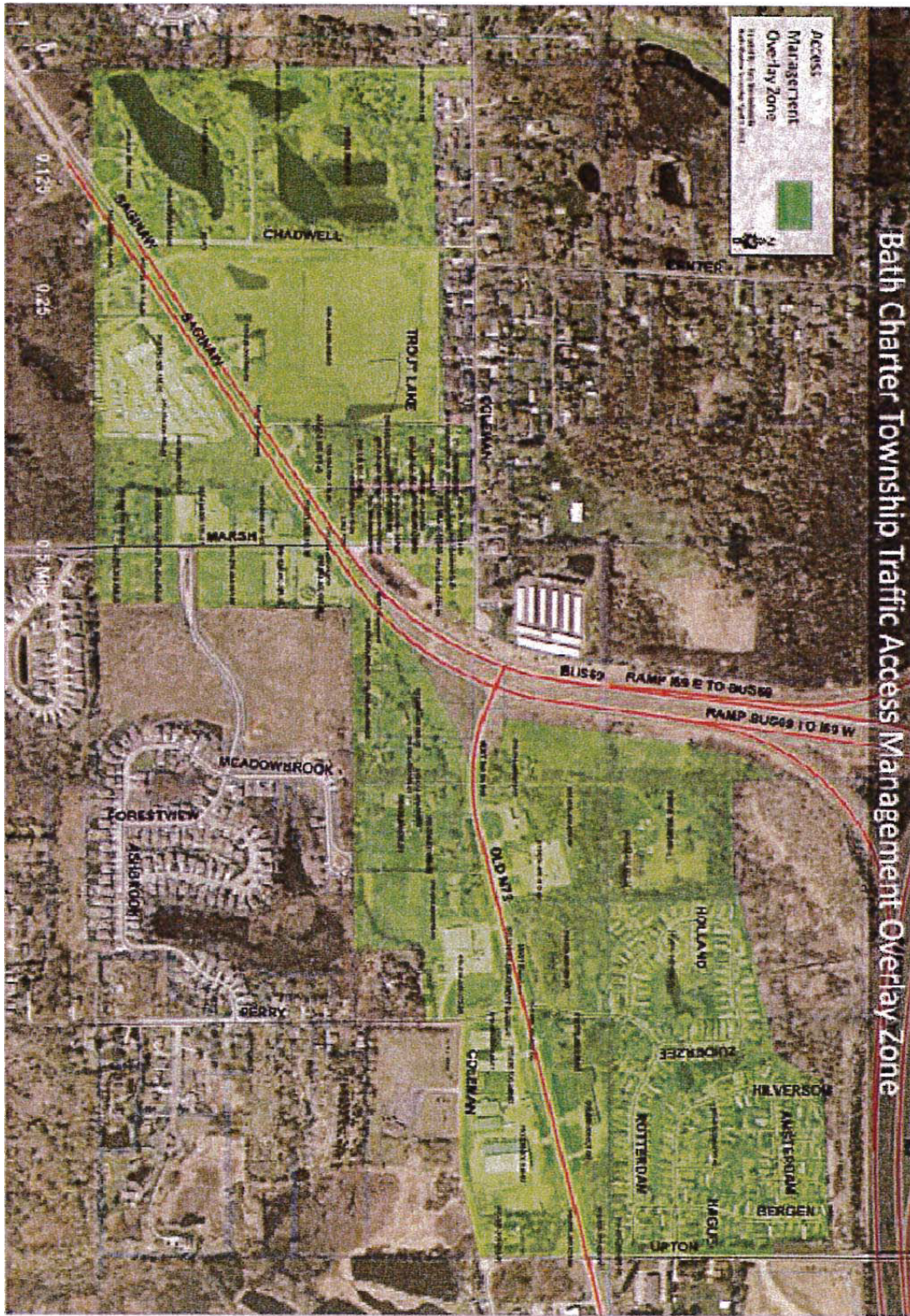
The Marsh Road/I-69 Interchange area access management zoning district—Site plan standards are intended to regulate the number and location of access points for a specified area along three identified roadways. The Marsh Road/I-69 Interchange area access management ordinance includes a non-expressway state trunk-line (Saginaw Street/BR 1-69) which serves as a primary east-west route across the southerly portion of the township; a state trunk-line roadway (Old M-78) which connects to the 1-69 entrance and exit ramps; and a major north-south county road (Marsh Road) which connects Clinton County (Bath Township) with Ingham County (Meridian Township). The Charter Township of Bath finds that special comprehensive zoning standards are needed in this area of the township based upon the following findings:

- (1) The combination of roadway design, traffic speeds, current and projected traffic volumes, potential traffic crashes and other characteristics necessitate special access standards.
- (2) Studies by transportation organizations in Michigan and nationally have found a direct correlation between the number of access points and the number of crashes.
- (3) The standards are based upon considerable research and recommendations contained within the Michigan Department of Transportation (MDOT) Access Management Guidebook.
- (4) Preservation of roadway capacity through access management protects the substantial public investment in the roadway system and helps avoid the need for costly reconstruction, which disrupts businesses.
- (5) Establish uniform access standards to ensure fair and equitable application.
- (6) Implement the goals and recommendations of the Bath Charter Township Comprehensive Plan (2008).
- (7) Implement the goals and recommendations of the Bath Charter Township Marsh Road/I-69 Interchange Area Access Management Plan (2010).

(Ord. No. 31.38, § II, 11-21-2011)

Sec. 13.02. - District boundaries.

This access management overlay district shall consist of the "hash-marked" areas set forth on the "Marsh Road/I-69, M-78 Overlay Access Management Zoning District Map" attached hereto and made a part of this ordinance by reference. Said map shall be attached to and become a part of the Zoning District Map described in section 4.01 of this ordinance, and shall be amended or replaced in accordance with the procedures for amendment or replacement of the zoning district map.



(Ord. No. 31.38, § II, 11-21-2011)

Sec. 13.03. - Intent of standards.

The Michigan Department of Transportation (MDOT) and the Clinton County Road Commission (CCRC) have jurisdiction over the roadways within their highway's right-of-way, while the Charter Township of Bath has authority for land use and site plan decisions within individual lots or parcels along the roadways. These access management standards were created to help ensure a collaborative process between the MDOT, CCRC and the Charter Township of Bath on access decisions within the

Marsh Road/I-69 Interchange Area to implement the recommendations of the "Marsh Road/I-69 Interchange Area Access Management Plan" dated March, 2010 and other adopted Charter Township of Bath standards. The standards of this section are further intended to:

- (1) Promote a more coordinated development review process for the Charter Township of Bath with the Michigan Department of Transportation (MDOT) and the Clinton County Road Commission (CCRC).
- (2) Preserve the capacity of the roadways by limiting and controlling the number, location and design of access points and requiring alternate means of access through shared driveways, service drives, and access off cross streets in certain locations.
- (3) Encourage efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
- (4) Improve safety and reduce the potential for crashes.
- (5) Avoid the proliferation of unnecessary curb cuts and driveways, and eliminate or reconfigure existing access points that do not conform to the standards herein, when the opportunities arise.
- (6) Implement the recommendations of the "Marsh Road/I-69 Interchange Area Access Management Plan", dated March, 2010.
- (7) Require longer frontages or wider minimum lot widths than required in other zoning districts to help achieve access management spacing standards.
- (8) Require coordinated access among adjacent lands where possible.
- (9) Require demonstration that resultant lots or parcels are accessible through compliance with the access standards herein prior to approval of any land divisions to ensure safe accessibility as required by the Land Division Act.
- (10) Address situations where existing development within the corridor area does not conform to the standards of this overlay district.
- (11) Avoid the need for unnecessary and costly reconstruction, which disrupts business operations and traffic flow.
- (12) Ensure efficient access by emergency and public transportation vehicles.
- (13) Improve safety for pedestrians and other non-motorized travelers through reducing the number of conflict points at access crossings.
- (14) Establish uniform standards to ensure fair and equal application.
- (15) Provide landowners with reasonable access, though the access may be restricted to a shared driveway or service drive or via a side street, or the number and location of access points may not be the arrangement most desired by the landowner or applicant.

(Ord. No. 31.38, § II, 11-21-2011)

#### Sec. 13.04. - Applicability of standards.

The standards of this section shall apply to all lots and parcels with frontage along Saginaw Street/BR I-69, Old M-78 between Saginaw Street/BR 1-69 and Upton Road, and Marsh Road between Coleman Road and the Clinton County south county line within the map area designated by "hash marks." The standards herein apply in addition to, and simultaneously with, the other applicable regulations of the zoning ordinance. The standards of this section are not retro-active for existing property within



the AMOD unless such property is part of a land use development change regulated by this section. Permitted and special land uses on these lands shall be as regulated in the applicable zoning district (as designated on the zoning map), and shall meet the following additional provisions.

- (1) The number of access points is the fewest needed to allow motorists reasonable access to the site.
- (2) No access point shall connect to a public street or road, without first receiving approval of the location and cross-section specifications from Bath Charter Township, the MDOT and/or CCRC. No access point shall connect to a private road unless approved by the planning commission and by the parties with an ownership interest in the private road.
- (3) Access spacing from intersections and other driveways shall meet the Marsh Road/I-69 Interchange area access management plan and the prevailing roadway jurisdictions guidelines. If there is a conflict in these requirements, the prevailing roadway jurisdiction requirements supersede the requirements of the Marsh Road/I-69 Interchange area access management plan.
- (4) Provisions have been made to share access with adjacent uses where possible, either now or in the future, including any necessary written shared access and maintenance agreements to be recorded with the county specifying that the Charter Township of Bath approval is required for any change to the easement.
- (5) No building or structure, nor the enlargement of any building or structure, shall be approved until the existing and/or proposed access points to the building or structure along the roadways within the Marsh Road/I-69 Interchange area access management plan regulations are reviewed by the township planning director and the prevailing roadway agency and the existing/proposed access points are deemed in compliance with the standards herein and all requirements are sufficiently met in connection with such building, structure, or enlargement.
- (6) All subdivisions and condominium projects shall comply with the access spacing standards as herein demonstrated. Compliance with this section shall be required to demonstrate that a lot is accessible as required under the Land Division Act (Act 288 of 1967, as amended).
- (7) Any change in use that requires a site plan review per article XX site plan review, the applicant shall identify the extent of compliance with the standards herein and shall submit information to the MDOT or the CCRC to determine if a new access permit is required.
- (8) For building or parking lot expansions, or changes in use or property, the township planning director shall determine the extent of upgrades to bring the site into greater compliance with the access standards. In making a decision, the township planning director shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, and any recommendations from the MDOT or CCRC. Required improvement may include removal or rearrangement of redesign of site access points.
- (9) The standards herein were developed collaboratively between the Charter Township of Bath, MDOT and Clinton County Road Commission. Where conflict occurs, the more restrictive standards apply.

(Ord. No. 31.38, § II, 11-21-2011)

#### Sec. 13.05. - Information required for approval.

In addition to the submittal information required for a special use permit in article XIX special use permits and site plan review in article XX site plan review, the following items (1) through (8) shall be provided with any application for site plan review or special use permit within said access management overlay district. The information listed in items (1) through (8)

below shall also be required with any request for a land division, subdivision plat or site condominium.

- (1) *Existing access points.* Existing access points within 500 feet on both sides of the roadway frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs, plat or survey. Dimensions between proposed and existing access points shall be shown on the site plan.
- (2) *Sight distance.* The applicant shall submit evidence indicating that the applicable Charter Township of Bath's, CCRC or MDOT sight distance requirements are met.
- (3) *Shared access.* Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval by the Charter Township of Bath. Once approved, this agreement shall be recorded with the Clinton County Register of Deeds.
- (4) *Dimensions.* Dimensions shall be provided for driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs) and all curb radii within the site.
- (5) *Large vehicles.* The site plan shall illustrate the route and layout of turning movements, with dimensions of any expected emergency vehicles, truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing the vehicles will not disrupt operations on the mainline road at the access points nor impede maneuvering or parking within the site.
- (6) *Traffic impact study.* A traffic impact study is required as specified in section 13.07, modifications.
- (7) *Review coordination.* The applicant shall provide copies of any conceptual or preliminary plans to the Charter Township of Bath so copies can be sent to the MDOT or CCRC, as applicable, and other necessary review agencies for their information and comment. Any correspondence from the MDOT on the general access design and geometrics shall be considered during the special use permit and site plan review processes. The Charter Township of Bath may request attendance at coordination meetings with representatives of the MDOT or CCRC. Once a final site plan has been approved by the Charter Township of Bath, the applicant shall request an access permit from MDOT or the CCRC. The approval of a land division or site plan does not negate the responsibility of an applicant to subsequently secure permits from the MDOT or CCRC.

(Ord. No. 31.38, § II, 11-21-2011)

#### Sec. 13.06. - Access management standards.

Access points (not including driveways that serve an essential public service or utility substation) along the three roadway segments contained within the Marsh Road/I-69 Interchange area shall meet the following standards. The spacing standards specified below shall be required to be measured from all other roads and driveways with the exception of single-family residential driveways. If there is a change in use from residential to a nonresidential use, the Bath Township planning director shall require existing access to be brought into general conformance with the requirements of this section. These standards are based on considerable research in Michigan and nationally, and were prepared concurrent with guidelines promoted by the MDOT in their Access Management Guidebook.

##### (a) *Residential driveway spacing standards.*

- (1) All subdivisions or condominium projects shall provide individual lot access from roads internal to the development and no lot shall have direct access to Saginaw Street/BR 1-69, Old M-78 or Marsh Road.
- (2) Each lot or parcel shall be permitted one access point.
- (3) In order to comply with the accessibility requirements of the Land Division Act (PA 228 of 1967, as amended), land divisions shall not be permitted that may prevent compliance with the access location standards of this section.

(b) *Commercial driveway spacing standards.*

- (1) Each lot or parcel shall be provided reasonable access. This access point may consist of a shared access with an adjacent use or access via a service drive, frontage road or side street.
- (2) The access point location(s) shall be in accordance with the standards of this section and shall provide the opportunity for shared access with adjoining lots. Each lot or parcel developed under this section shall be required to grant shared access easements to adjoining lots or parcels to allow for future shared access. Where a proposed parking lot is located adjacent to the parking lot of similar use, there shall be a vehicular connection where feasible, as determined by the Bath Township planning director.
- (3) In order to comply with the accessibility requirements of the Land Division Act (PA 228 of 1967, as amended), land divisions shall not be permitted that may prevent compliance with the access location standards of this section.
- (4) Unsignalized driveway access spacing—Full movement driveways. Adjacent unsignalized accesses along Saginaw Street/BR 1-69, Old M-78 and Marsh Road within the overlay district should be spaced as far apart as allowable. Table 1 shows the desirable unsignalized access spacing as a function of posted speed. The site distance at the access pints must also be investigated to ensure that corner sight distance and stopping sight distance requirements are met.

| <b>Table 1<br/>Guidelines for Unsignalized Driveway Spacing—<br/>Same Side of Roadway</b> |                                 |
|---|---------------------------------|
| Posted Speed MPH  | Center to Center of Access Feet |
| 25  | 130                             |
| 30  | 185                             |
| 35  | 245                             |
| 40  | 300                             |
| 45  | 350                             |
| 50 and above  | 455+                            |

\*Based on MDOT Traffic and Safety Note 608A—Spacing for commercial driveways and streets. Note these values are considered minimums based on the distances required to avoid conflicts between vehicles turning right or left from adjacent driveways.

- (5) Unsignalized driveway access spacing—Restricted movement driveways (limited to right turn in/right turn out movements). Restricted accesses along Saginaw Street/BR 1-69, Old M-78 and Marsh Road within the overlay district should be spaced as far apart as allowable. However, restricted access points have a desirable

spacing of at least 150 feet from the adjacent access points or as identified in the Marsh Road/I-69 Interchange area access management plan.

- (6) Driveway access spacing from signalized intersection. All driveway access points shall be located as far away from the signalized intersection as allowable. Full movement and restricted movement driveway accesses shall be located 230 feet away from the signalized intersection if the posted speed limit is 30 MPH to 35 MPH. For posted speed limits over 40 MPH, the driveway access should be located 460 feet from the signalized intersection or as identified in the Marsh Road/I-69 Interchange area access management plan.
- (7) Driveway access spacing from unsignalized intersections. All driveway access points shall be located as far away from the signalized intersection as allowable. At a minimum, all access points should be located a minimum of 115 feet from the intersection with a posted speed limit of 30 MPH to 35 MPH or 230 feet with a posted speed limit greater than 40 MPH or as identified in the Marsh Road/I-69 Interchange area access management plan.
- (8) Driveway access spacing—opposite sides of roadway. Consideration should be given to driveway alignment on both sides of the street. Access points shall be offset according to table 2 where allowable. If desired spacing cannot be achieved, the driveway shall be constructed perpendicular to the existing public street or an approved private road and shall line up with existing or planned driveways on the opposite side of the road wherever facing lots are not separated by a median. An engineering study should be performed to identify the proper location of opposite side of the road driveway spacing when the desirable offsets cannot be achieved or as directed by the township planning director.

| <b>Table 2</b>   |  |
|--|--|
| <b>Desirable Driveway Offsets on Undivided Highways <sup>1</sup></b> |  |
| Posted Speed<br>MPH  | Desirable Offset Distance between Access Points on Opposite Sides of an<br>Undivided Roadway—Center to Center Access<br>Feet |
| 25   | 255  |
| 30   | 325  |
| 35   | 425  |
| 40   | 525  |
| 45   | 630  |
| 50 and above   | 750  |

\*Based on MDOT Traffic and Safety Note 608A—Spacing for commercial driveways and streets. Note these values are considered minimums based on the distances required to avoid conflicts between vehicles turning left into adjacent driveways.

<sup>1</sup> Table 2 does not apply to Saginaw Street/BR 1-69.

- (c) *Number of access points.* Access for an individual parcel, lot or building site or for contiguous parcels, lots or building sites, under the same ownership shall consist of a single two-way driveway to accommodate ingress and egress traffic. One driveway shall be permitted for each single and two-family residential lot or parcel. The number of commercial driveways serving a property shall be the minimum number necessary to provide reasonable vehicular access and proper access for emergency vehicles, while preserving traffic operations and safety along the public roadway, as supported by a traffic impact study. Access may be via an individual access point or shared access along a service drive. An additional access point may be allowed by the township planning director if the following applies.
- (1) One additional access point along Saginaw Street/BR 1-69 may be allowed for land with a continuous frontage of over 800 feet, and only if the planning commission determines there are no other reasonable access opportunities.
  - (2) One additional access point along Old M-78 and March Road may be allowed for land with a continuous frontage of over 600 feet along the respective roadway and only if the planning commission determines there are no other reasonable access opportunities.
  - (3) One additional access point may be allowed along streets that intersect Saginaw Street/BR 1-69, Old M-78 and Marsh Road for land with at least 600 feet of frontage along that street and only if the planning commission determines there are no other reasonable access opportunities.
  - (4) One additional access point may be allowed if the land is a corner parcel with at least 300 feet of frontage along both public streets and only if the planning commission determines there are no other reasonable access opportunities.
  - (5) Additional access points may be allowed if a traffic impact study prepared by a professional engineer deems the additional access necessary for safe and efficient movement of traffic on the public street system and within the proposed site.
  - (6) One-way access points are discouraged (unless otherwise noted in the plan) due to their conflict with the township's goal to reduce the number of driveways.
  - (7) The planning commission determines additional access is justified without compromising safety and traffic operations along the arterial, based upon a request for modification submitted pursuant to the requirements of the modifications section.
- (d) *Shared access.* The use of shared access, parking lot connections and service drives, in conjunction with driveway spacing is intended to preserve traffic flow along major thoroughfares and minimize traffic conflicts, while retaining reasonable access to the property. Shared access is strongly encouraged and in some cases may be required as part of the site plan review process. When required, one or more of the following options apply.
- (1) *Shared driveways.* Sharing, or joint use, of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the driveway spacing requirements of subsection E [D] of this section, where access could potentially interfere with traffic operations at an existing or planned traffic signal location, where the property frontage has limited sight distance or where the emergency services department recommends a second means of emergency access, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another and/or access the public street.
  - (2) *Frontage/backage roads.* In cases where a frontage road exists, is recommended either in the Bath Charter

Township comprehensive plan or is proposed in an approved site plan for an adjoining lot or parcel, access shall be provided via such frontage road, rather than by direct connection to the abutting arterial street. If a frontage road is proposed but adjacent properties have not yet developed, the site shall be designed to accommodate a future road/facility designed according to the standards of this ordinance. The Planning commission may approve temporary access points where a continuous service drive is not yet available. Frontage/backage roads shall generally be parallel to the front property line and may be placed in required yards.

- (3) *Parking lot connections.* Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the planning commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final approvals.

(Ord. No. 31.38, § II, 11-21-2011)

#### Sec. 13.07. - Site plan modifications and/or retrofit.

In the case of expansion, alteration or redesign of an existing development, or unique situations on a vacant parcel, where it can be demonstrated that existing conditions prohibit adherence to the access spacing and number standards of section 13.06, applicant may request from the planning commission a waiver of standards if the site cannot meet one or more of the standards according to the procedures provided below.

- (1) Such modifications shall be the minimum amount necessary.
- (2) Such modifications will meet the intent of, and be consistent, with the Marsh Road/I-69 Interchange area access management plan and the Bath Charter Township comprehensive plan to the extent possible.
- (3) When the owner of a property with an existing, nonconforming driveway(s) applies for a permit to upgrade or change the use of the property, the township, through its site plan review process, or, building permit review process, will determine whether it is necessary and appropriate to apply the standards presented in this ordinance or retrofit the existing driveway or driveways. The property owner may be required to establish a retrofit plan. The objectives of the retrofit plan will be to minimize the traffic and safety impacts of the development by bringing the number, spacing, location and design of the driveways into conformance with the standards and requirements of this ordinance to the extent possible without imposing unnecessary hardship on the property owner. The requirements of a retrofit plan shall be incorporated as conditions to the permit for the change or upgrade of use and the property owner shall be responsible for the retrofit.
- (4) A traffic impact study may be required as determined by the township planning director to be submitted by the petitioner for site plan modifications and/or retrofit in accordance with the requirements set forth in "Evaluating Traffic Impact Studies", 1<sup>st</sup> Edition Published in 1994 by the Michigan Department of Transportation.

(Ord. No. 31.38, § II, 11-21-2011)

#### ARTICLE XIV. - PERFORMANCE CRITERIA

##### Sec. 14.01. - Purpose.

Within each zoning district is contained a section entitled "site development standards" which provides the framework for regulating the basic issues of zoning, i.e., adequate light, air, open spaces and so forth. Further criteria as contained within this article provide detailed regulations and restrictions in order to protect neighboring uses from possible adverse impacts associated with a given use. Also, to protect the general health, safety and welfare by limiting where uses may be established, insuring that traffic congestion is minimized, controlling the intensity of use and prescribing other such performance criteria as may be necessary to meet the goals and objectives of this ordinance. In that flexibility within application of the basic zoning regulations is a primary focus of this ordinance, it also depends upon a comprehensive performance evaluation process to review use proposals as well as insure compatibility between neighboring and perhaps dissimilar land uses.

*Commentary.* When utilizing a "traditional" zoning ordinance, a landowner when contemplating development of some type, would first refer to the zoning map to determine within what district his property was situated and secondly refer to the "uses permitted" section of the ordinance text to find whether or not what he was considering was permissible. Next, the landowner would refer to the "yard" and "lot" requirements for development in the specific district. Unfortunately, this system imposes such requirements without sensitivity to the characteristics of the particular site or parcel. Major variables such as environmental limitations and surrounding land uses and their interaction with the proposed use are, in large part, disregarded.

Utilizing a "performance oriented" approach does not change the initial activities of the above sequence, i.e., one still needs to reference the zoning map and list of uses. However, the range of options within those districts intended to accommodate the bulk of future growth, i.e., the D, H and M districts, is very broad. The performance zoning approach then applies the site specific orientation lacking in conventional zoning. The natural constraints of the site are considered; an assessment of land use "intensity" is determined (following that the more intense a use is, the greater its impact on neighboring uses); and provisions to reduce or compensate for this "intensity" are then applied. The landowners prerogative under the performance system is one of determining at what point the increased "intensity" of use is no longer worth the increased "performance" required, rather than attempting to revise the zoning map or text to meet his needs.

#### Sec. 14.02. - Definitions.

Several terms are used within the text or tables of this article that warrant clarification for the users of this document. In addition to the definitions set forth in article III, the following words shall have the meanings hereinafter set forth:

*Base site area.* A land area determination derived by simple calculation of gross site area excluding certain specified variables; see table in [section 14.03](#).

*Bufferyard.* A strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

*Floor area ratio.* An intensity of use measured as a ratio, derived by dividing the total floor area of the building by the base site area.

*Land use classes.* A hierarchy of certain land use types that require compliance with specific performance standards as a criteria of their approval in a given zoning district; see table in [section 14.04](#).

*Open space ratio.* The proportion of a site consisting of required open space as defined and specified in [section 14.03](#) and which shall be calculated using the base site area. Roads and drives may be located within the required open space, however, open space land shall not be occupied by required parking areas.

*Subdivision.* The division of a lot, tract or parcel of land into five or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten acres.

*Subdivision, conventional.* A conventional subdivision consists of single-family dwellings on individual lots with no provisions for clustering of dwelling units, reduction of lot sizes below the specified lot area, or required community or neighborhood open space. A conventional subdivision is characterized by division of the entire subject parcel into individual lots.

*Subdivision, performance.* Performance subdivisions permit the residential builder considerable freedom in design. It allows adjustments in lot sizes and clustering of dwelling units to better adjust to the constraints of a site or of adjoining uses. Further, it insures adequate open space for the residents of each such subdivision.

**Cross reference**— Definitions generally, § 1-2.

Sec. 14.03. - District performance standards.

This section contains those basic standards applicable to the districts' varied uses permitted within this ordinance. The standards as contained in table 14.03D are minimum standards and must be met by each use as specified. The minimum development/lot area specifies the minimum lot size for which development may be proposed. The high-density residential district provides for varying lot sizes depending upon the use type. The floor area ratio controls the amount of building floor area permitted per unit of lot area. Finally, the open space ratio regulates the undeveloped open space that must be provided per use type in a given district.

A. *Base site area.* (How to determine).

- (1) Gross site area as determined by legal description, survey or assessor's records.

\_\_\_\_\_ Acres

- (2) Subtract land within right-of-way of existing roads or utilities and easements.

(-) \_\_\_\_\_ Acres

- (3) In those instances where mixed uses might be proposed;

- (a) Subtract land used or proposed for residential use in determining base site area for non-residential purposes; or

(-) \_\_\_\_\_ Acres

- (b) Subtract land used or proposed for non-residential use in determining base site area for residential purposes.

(-) \_\_\_\_\_ Acres

- (4) Subtract land required for bufferyard; (see section 14.05).

(-) \_\_\_\_\_ Acres.

- (5) Equals base site area.

= \_\_\_\_\_ Acres

Example - how to determine "base site area" of office in the development or D zoning district:



|     |   |                   |
|-----|---|-------------------|
| (1) | Gross site area (1 ac = 200' × 217.8')              | 43,560 sq. ft.    |
| (2) | Subtract R-O-W, roads or easements                  | 0                 |
| (3) | Subtract non-contiguous area                        | 0                 |
| (4) | Subtract any land proposed for residential purposes | 0                 |
| (5) | Subtract bufferyard (see diagrams)                  | (-) 8,712 sq. ft. |
| (6) | Equals base site area                               | 34,848 sq. ft.    |

B. *Determination of site capacity.* All non-residential uses. Individual site capacity for institutional, office, commercial and other non-residential uses, as denoted in various zoning districts, is determined as follows:

Example - office in development district:

|     |                              |                  |
|-----|------------------------------|------------------|
| (1) | Take—Base site area          | 34,848 sq. ft.   |
| (2) | Multiply by—Floor area ratio | × .15            |
| (3) | Equals—Permitted floor area  | = 5,227 sq. ft.  |
| (4) | Then take—Base site area     | 34,848 sq. ft.   |
| (5) | Multiply by—Open space ratio | × .60            |
| (6) | Equals—Required open space   | = 20,908 sq. ft. |

Summary:

|     |                      |                   |
|-----|----------------------|-------------------|
| (1) | Gross site area      | 43,560 sq. ft.    |
| (2) | Bufferyards          | (-)8,712 sq. ft.  |
| (3) | Permitted floor area | (-)5,227 sq. ft.  |
| (4) | Required open space  | (-)20,908 sq. ft. |
| (5) | Parking              | (-)6,300 sq. ft.* |

|  |                 |
|--|-----------------|
|  | = 2,413 sq. ft. |
|--|-----------------|

\* 5,227 sq. ft. of permitted floor area divided by 150 sq. ft. = 35 spaces × 180 sq. ft. = 6,300 sq. ft. (see article XVII - Off-Street Parking...).

C. *Determination of site capacity.* Other residential uses in the D, H and M districts. The individual site capacity and total density for two-family or multifamily residential uses, as permitted in the D, H and M districts, are determined as follows:

Example: two-bedroom townhouses in the H district:

|     |                                |                 |
|-----|--------------------------------|-----------------|
| (1) | Take—Base site area            | 34,848 sq. ft.  |
| (2) | Multiply by—Open space ratio   | × .30           |
| (3) | Equals—Required open space     | =10,454 sq. ft. |
| (4) | Then take—Base site area       | 34,848 sq. ft.  |
| (5) | Multiply by—Floor area ratio   | × .50           |
| (6) | Equals—Permitted floor area    | =17,424 sq. ft. |
| (7) | Divide by—Minimum floor area   | 800 sq. ft.     |
| (8) | Maximum density—Dwelling units | = (14)22*       |

\* 14 is maximum density without bonuses

D. *Table of district performance standards.\*\**

| Zoning District and Use | Min. Devel/Lot area | Floor Area Ratio | Open Space Ratio |
|-------------------------|---------------------|------------------|------------------|
| <i>L District</i>       |                     |                  |                  |
| Performance sub.        | 1 acre              | —                | .60              |
| Institutional           | "                   | .20              | .80              |
| Recreational            | "                   | .05              | .80              |

|                          |                |     |     |
|--------------------------|----------------|-----|-----|
| Other                    | "              | .05 | .80 |
| <i>D district</i>        |                |     |     |
| Performance sub.         | 1 acre         | —   | .50 |
| Other residential        | "              | .20 | .50 |
| Institutional            | "              | .20 | .60 |
| Recreational             | "              | .05 | .80 |
| Office/service           | "              | .15 | .60 |
| Retail                   | "              | .10 | .80 |
| Industrial               | "              | .40 | .40 |
| Other                    | "              | .10 | .80 |
| <i>M and H districts</i> |                |     |     |
| Performance sub.         | 1 acre         | —   | —   |
| Other residential        | 6,000 sq. ft.  | .50 | .30 |
| Office/service           | 6,000 sq. ft.  | .40 | .30 |
| Retail                   | 6,000 sq. ft.  | .30 | .30 |
| Other commercial         | 12,000 sq. ft. | .30 | .40 |
| Other                    | 10,000 sq. ft. | .40 | .40 |

\*\* Caution: This table applies to performance subdivisions only.

Sec. 14.04. - Land use classes.

*Commentary.* The dominant premise of this ordinance is that "performance" should be the relevant measure of any land use regulation. This section classifies all land uses permitted by this ordinance according to their type of degree of intensity, or impact they are likely to impose on adjacent land use situations. All uses within a specific class are considered to have equal impact relative to neighboring uses. The impacts of greater intensity may include, increased vehicular or pedestrian traffic and

associated noise and congestion, larger signs, exterior lighting, more dominating buildings, increased stormwater runoff associated with larger roof surfaces and parking areas and other similar factors. The individual zoning district controls whether or not a specific use can develop on a lot in that district, while the land use classes are fundamental in determining the level of protection required in the all-important bufferyard.

#### LAND USE CLASS NUMBER AND GENERAL USE CATEGORY

##### Class I

- Agriculture

- Single-family detached residences

##### Class II

- Performance subdivision

- Open space/conservation uses

- Non-commercial recreational facilities

##### Class III

- Religious institutions

- Educational institutions

- Public buildings/public service installations

- Two-family dwellings

- Multifamily dwellings

##### Class IV

- Offices

- Service establishments

- Convenience retail establishments

##### Class V

- General retail establishments

- Other commercial uses

- Other office or service uses

- Research and development uses

- Wholesale and warehousing

- Other industrial uses

*Commentary.* Traditional zoning theory has held that land uses in a community should be divided into districts which contain (in theory) compatible uses. Those uses permitted within a given district would be similar in intensity as well as negative characteristics. A second feature of traditional zoning theory is that by carefully selecting the location or juxtaposition of individual districts, the uses therein will be provided protection. In practice, however, this has not proven to be the case as diverse uses are often located adjacent to one another without sufficient protection. Under the "performance-oriented" system, the bufferyard will provide both distance and plantings in order to minimize negative impacts.

The bufferyard is a designated unit of yard or open area together with any plant materials, barriers or fences required thereon. Both the amount of land and the type and amount of landscaping specified are designated to lessen impacts between adjoining land uses. By using both distance and landscaping, potential nuisances such as noise, glare, activity, dirt, unsightly parking areas and so forth, will be minimized.

The bufferyard requirements must be flexible. A single standard applied to all circumstances may not function well or might impose unnecessary hardship (cost) on a developer to say nothing of promoting monotony. As expressed in the following diagram, differing requirements are obviously warranted depending upon the characteristics of the uses involved. It is a further intent of the following provisions to provide flexibility to the developer or property owner through the manipulation of four basic elements, i.e., distance, plant material type, plant material density and structural or land forms.

- A. *Location of bufferyards.* Bufferyards shall be located on the side and rear lot lines of a parcel extending to the lot or parcel boundary line. Bufferyards shall not extend into or be located within any portion of an existing street right-of-way (front lot line).
- B. *Determination of bufferyard requirements.* To determine the type of bufferyard required between two adjacent parcels, the following procedure shall be followed:
- (1) Identify the land use class of the proposed use by referring to the table in section 14.04.
  - (2) Identify the land use class of each adjoining use by referring to the table in section 14.04.
  - (3) Determine the bufferyard requirements for those side and rear lot lines or portion thereof, on the subject parcel, by referring to the table, "bufferyard requirements for adjacent land", in section 14.05(C). Existing plant material or fences may be counted as contributing to the total bufferyard requirement. The bufferyards specified are to be provided on each lot or parcel independent of adjoining uses or adjoining bufferyards.
  - (4) When a developed use is proposed adjacent to vacant land, the owners of the affected properties may submit a contractual agreement whereby the bufferyard for the developed use is reduced or waived, provided that the owner of said use agrees to develop at no greater intensity than the specified land use class; and if additional buffer is needed at a future point, it will be provided on the vacant land.
  - (5) Should a developed use increase in intensity from a given land use class to a higher one (e.g., class III to class IV), the planning commission shall, during the site plan review process, determine if additional bufferyard is needed and if so to what extent and type.
  - (6) As indicated in sketches, an elevated bufferyard may be required by construction of a berm; the height, width and length of berm will be a determination of the planning commission on a site plan by site plan basis.
- Note.* Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The requirements may be satisfied by any of [the] options indicated (bufferyard type A—E).
- C. *Plant materials.* All plant materials required within specified bufferyard shall be planted to completion within six months from date of approval of the site plan and thereafter be properly maintained.

The following landscape/plant materials are suggested for inclusion in the required bufferyards:

|   |   |
|---|---|
| Type  | Minimum Allowable size  |
| Deciduous trees   |   |
| Maple, Oak, Birch, Beech, Linden, Honeylocust, Ash, Ginkgo  | Minimum eight feet in height or not less than 1½ inches in caliper. |
| Deciduous shrubs (shrublike trees):   |   |
| Russian Olive, Dogwood, Redbud, Flowering Crab, Hawthorn, Magnolia, Fruit (Pear, Cherry, Plum, Peach) | Minimum six feet in height or not less than one inch in caliper.    |
| Deciduous shrubs (shrubs):  |   |
| Honeysuckle, Lilac, Cotoneaster, Forsythia, Euonymus, Hydrangea, Privet, Sumac                        |   |
| Evergreens:   |   |
| Pine, Fir, Spruce, Hemlock, Juniper, Yew, Arbor-Vitae   | Minimum four feet in height.  |

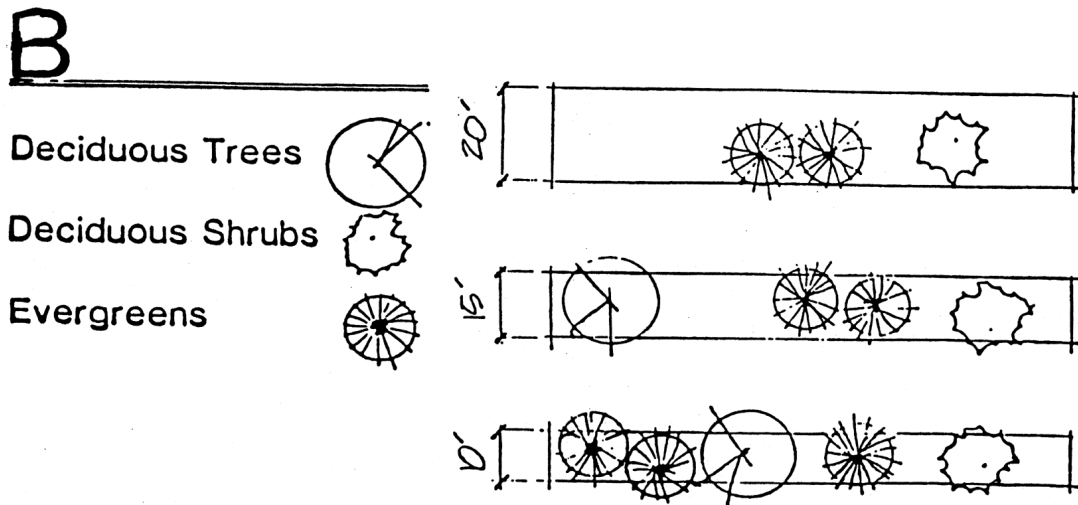
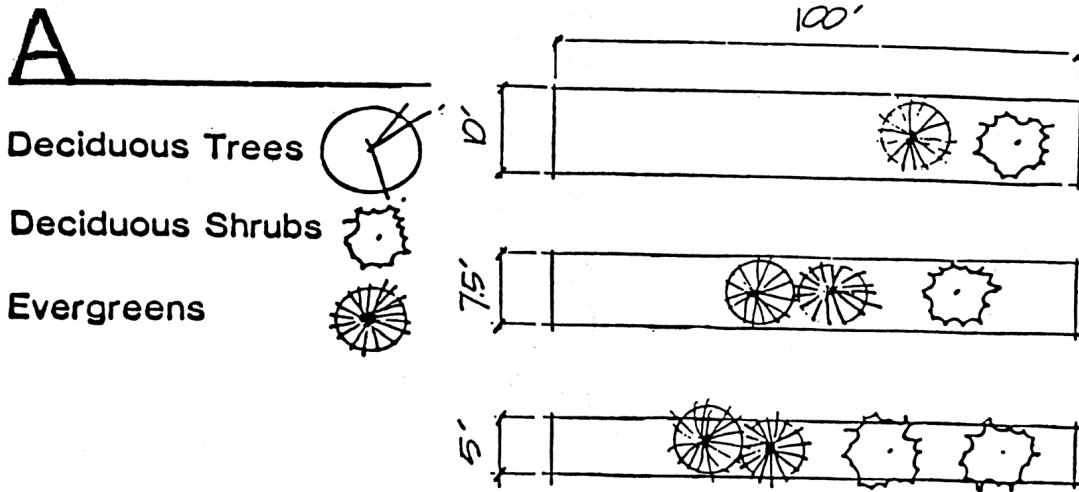
Bufferyard requirements for adjacent land

| Land Use Class | Adjacent Existing Land Use Class |    |     |    |   | Adjacent Vacant Land Zoning Districts |   |   |     |   |
|----------------|----------------------------------|----|-----|----|---|---------------------------------------|---|---|-----|---|
|                | I                                | II | III | IV | V | R                                     | D | L | M/H | P |
| I              | *                                | E  | E   | E  | E | A                                     | E | B | E   | A |
| II             | E                                | A  | B   | C  | D | B                                     | E | C | E   | A |
| III            | E                                | D  | A   | B  | C | D                                     | D | C | E   | D |
| IV             | E                                | D  | C   | A  | B | E                                     | A | D | A   | E |
| V              | E                                | D  | C   | B  | A | E                                     | A | E | A   | E |

\*No bufferyard required

*Bufferyard type.* The following illustrations graphically indicate the specifications of each bufferyard. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The requirements of a bufferyard may be satisfied by any of the options indicated.

See following bufferyard diagrams: A, B, C, D, and E



# C

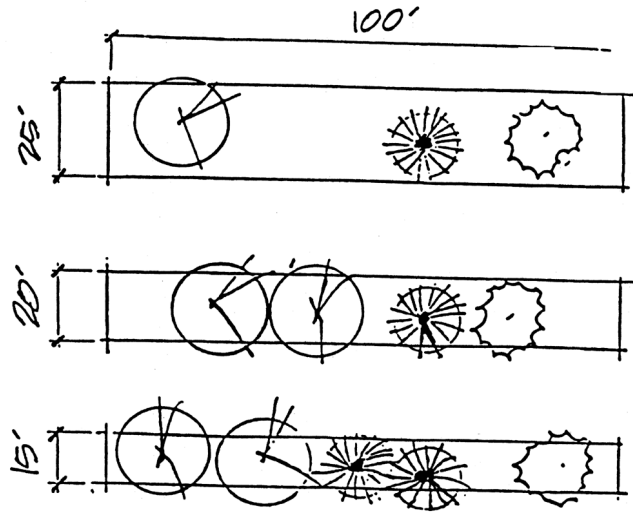
Deciduous Trees



Deciduous Shrubs



Evergreens



# D

Deciduous Trees



Deciduous Shrubs



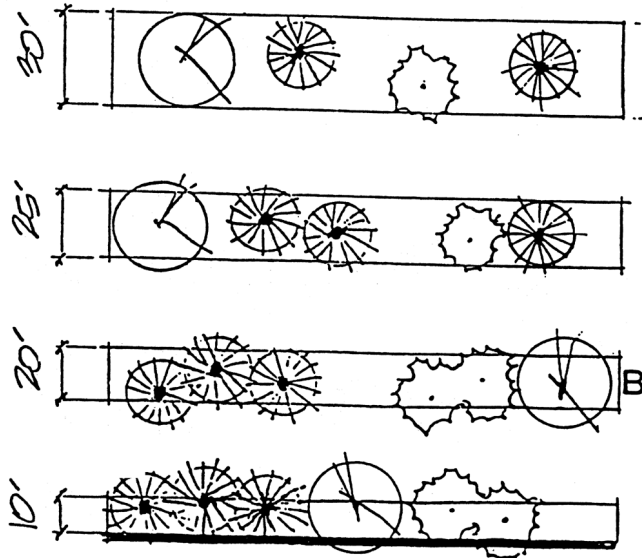
Evergreens



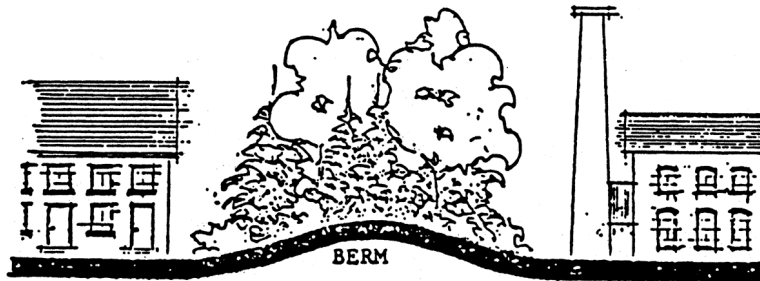
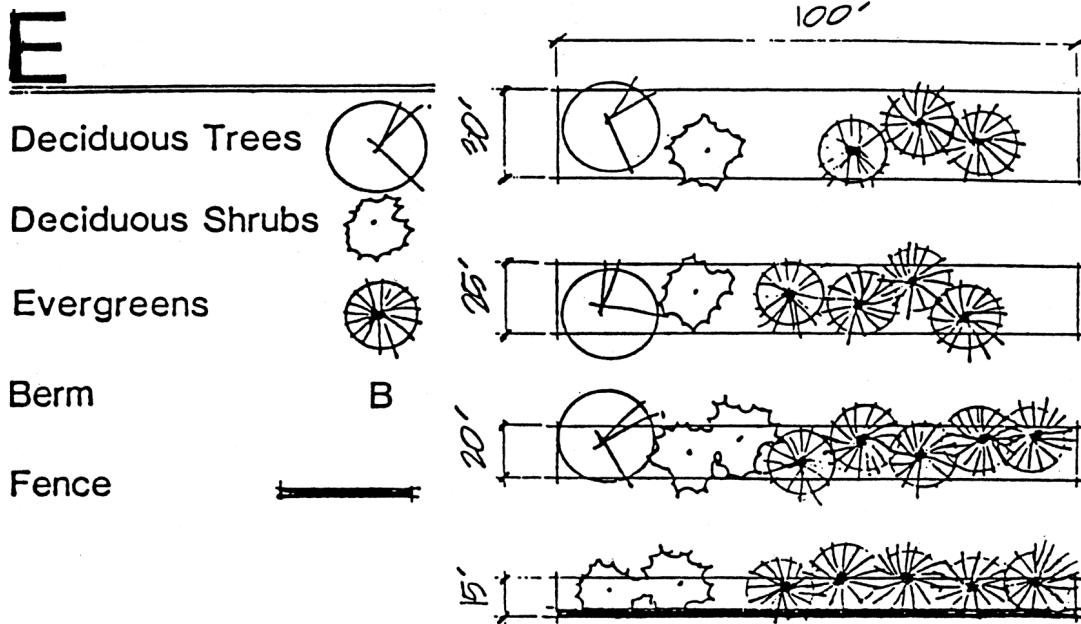
Berm

B

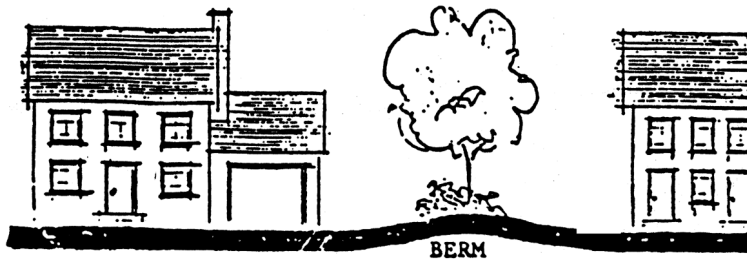
Fence







**MAJOR DIFFERENCE-LARGE BUFFER**



**SMALL DIFFERENCE-SMALL BUFFER**

Sec. 14.06. - Detailed performance requirements.

Within this section are specified detailed regulations applicable to specific land uses. It is felt that standards, above and beyond those imposed by other sections of this ordinance, are necessary for certain uses.

A. *Performance subdivision.* A performance subdivision may contain one or more of the housing development types as specified in this subsection. All dwelling types shall be single-family residences, having approved public sanitary sewer and/or water unless waived by the planning commission and board of trustees. By complying with stipulated performance criteria, flexibility in design is encouraged, thereby promoting lower land development costs, increased open space within subdivisions and protection of certain natural features. However, where a conflict arises between the requirements of yard setbacks and maximum lot coverage, yard setback requirements shall prevail.

(1) *Requirements for performance subdivision include:*

- (a) For each square foot of land gained under the provisions of this section in a performance subdivision, through the lot size below the minimum requirements for the zoning district in which it is located, equal amounts of dedicated to the common use of lot owners of the subdivision in a manner approved by the planning comm dedicated area shall be retained as undeveloped open space.
  - (b) Wherein land proposed for usage as a performance subdivision is immediately contiguous on one or more sides to an existing single-family detached subdivision of 15 acres or larger in size, the net density per acre of the performance subdivision shall not exceed the net density per acre of said existing subdivision. Contiguity shall mean having immediate contact along a property line; properties separated by public road rights-of-way shall not be considered contiguous.
- (2) *Single-family house*. This dwelling type consists of a single-family residence located on a privately owned lot having yard area on all four sides of the house. The following table specifies the minimum standards for this traditional method of single-family housing.

| Zoning Districts (performance subdivisions only)* |            |            |            |            |
|---|------------|------------|------------|------------|
|   | H District | M District | L District | D District |
| Minimum lot area                                  | 3,000      | 6,000      | 10,000     | 10,000     |
| Minimum lot width                                 | 40         | 60         | 75         | 75         |
| Maximum lot coverage (%)                          | 25         | 25         | 25         | 25         |
| Minimum yards                                     |            |            |            |            |
| Front   | 25         | 25         | 25         | 25         |
| Side  | 10         | 10         | 10         | 10         |
| Rear  | 15         | 25         | 25         | 25         |

\* In the event of condominium development, acreage net densities shall be maintained in respective zoning districts, as inferred in this table.

- (3) *Lot-line house*. This dwelling type consists of a single-family residence, located on an individual lot. The dwelling; however, may be situated on a side lot line provided:
  - (a) Exterior windows are prohibited for that portion of structure that abuts lot line;
  - (b) A five-foot maintenance easement for painting, repair, etc., shall be provided for the property owner;
  - (c) The minimum standards for the "single-family house" listed above shall apply except for the side yard.
- (4) *Duplex*. This dwelling type consists of a semi-detached single-family residence located on an individual lot. The dwelling may be attached to another single-family dwelling at a side lot line through the use of one or more of the following characteristics:

- (a) A common party wall through the garage portion of adjacent structures;
- (b) An architectural wall detail which does not form interior room space between any two units; and
- (c) A common party wall that meets all fire resistance and sound transmission requirements of the township building code.

The duplex dwelling shall be typified insofar as possible by characteristics commonly associated with single-family dwellings in the township, including the expression of individuality of each dwelling unit; privacy; and a sense of spaciousness. In addition, the minimum standards for the "single-family house" listed above shall apply.

- (5) *Row or townhouse.* In the event single-family dwellings with two common walls would be desired, row or townhouses could be constructed in the H district only; the minimum standards for the "single-family house" listed above shall apply; and the following requirements shall be followed:
  - (a) The sideyards shall be exempted from the minimum standards;
  - (b) Frontyard and rearyard dimensions shall be decreased by five feet each; and
  - (c) The lot width shall be reduced by 20 feet.

B. *Institutional (Public or quasi-Public) uses or structures.* Inasmuch as the institutional uses (schools, churches, public buildings) permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following performance standards must be met prior to development of such uses:

- (1) Hazardous areas must be adequately fenced to avoid accidents, such areas include public utility substations.
- (2) Any permitted institutional structure should preferably be located at the edge of a low-density residential district, abutting a D, H or M district, or a public open space.
- (3) If possible, all permitted institutional uses should front on a major street (minor arterial or collector).
- (4) Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the institutional use upon the residential area.
- (5) Site locations should be chosen which offer natural or man-made barriers that would lessen the effect of the intrusion of an institutional use into an established residential area.
- (6) Institutional uses should not be located so as to cause costly public improvements.
- (7) Institutional structures shall be located no closer than 50 feet to adjacent property lines.

C. *Two-family and multifamily dwellings.* In addition to the site development standards and performance criteria required for two-family or multifamily uses in a specific zoning district, the following standards shall be met prior to development of such uses:

- (1) No multiple family building designed, erected or used for ten or more families shall be located closer than 50 feet to any rural or low-density residential zone line. Where planning commission studies indicate adjoining property will eventually assume similar development as property in question, the commission may waive the 50-foot minimum.
- (2) No single building or connected buildings may exceed 200 feet in any one dimension. All buildings shall be so arranged as to permit emergency vehicle access, by some practical means, to all sides.
- (3) The distance of separation between grouped buildings shall be a minimum of 25 feet.
- (4) No entrance to a multiple family structure shall be located closer to any street intersection access road, driveway or parking area than 25 feet.

D. *Office, service or convenience commercial structures or uses.* In addition to the site development standards and performance criteria required for office, service or convenience commercial uses in a specific zoning district, the following standards shall be met prior to development of such uses:

- (1) Where one or more lot lines abuts an existing single-family residential use, an elevational drawing of the proposed structure shall be submitted for planning commission review and approval. The planning commission may stipulate that such office or commercial structures be constructed with a residential facade and/or be a residential scale (mass) and character.

E. *Industrial uses.* In addition to the site development standards and performance criteria required for industrial (manufacturing, warehousing, etc.) uses in the village core district, the following standards of operation shall be met:

- (1) *Noise.* The intensity level of sounds shall not exceed the following decibel level when adjacent to the following types of uses:

| In Decibels | Adjacent Use          | Where Measured  |
|-------------|-----------------------|-----------------|
| 55 db       | Residential dwellings | Common lot line |
| 65 db       | Commercial            | Common lot line |
| 70 db       | Industrial and other  | Common lot line |

- (2) *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch, as measured at the property line.
- (3) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines is prohibited.
- (4) *Gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- (5) *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be occupied.
- (6) *Light.* Exterior lighting shall be so installed that the surface of the source of light shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line five feet above the ground in a residential district.
- (7) *Electromagnetic radiation.* Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this ordinance.
- (8) *Smoke.* It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period of [or] periods aggregating more than four minutes in any one-half hour which is:
  - (a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this ordinance, shall

be the standard. However, the Umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the zoning administrator.

- (b) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in (a) above, except when the emission consists only of water vapor.
- (9) *Drifted and blown materials.* The drifting or airborne transmission to areas beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.
- (10) *Radioactive materials.* Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
- (11) *Sewage wastes.* All industrial sewage discharged into the public sewers shall be subject to the Bath Charter Township Sanitary Sewer Ordinance and all limitations or criteria set forth therein.

#### ARTICLE XV. - SPECIAL PROVISIONS

The following special provisions establish miscellaneous regulations which have not been specifically provided for in other portions of this ordinance, yet are applicable to all zoning districts unless otherwise indicated.

##### Sec. 15.01. - Unsafe or nuisance buildings and/or lots.

Nothing in this ordinance shall prevent compliance with an order by the zoning administrator or other appropriate authority to correct, improve, strengthen, or restore to a safe acceptable condition any building or lot or any part of a building or lot declared to be unsafe or a nuisance.

**Cross reference**— Buildings and building regulations, ch. 14; environment, ch. 30.

##### Sec. 15.02. - One building per lot.

No more than one principal building may be permitted on a lot or parcel, unless specifically provided for elsewhere in this ordinance.

##### Sec. 15.03. - Access to a street (lot of record).

Single lots of record created before the effective date of this amendment without frontage on a street may be occupied, provided that said lot has access to a street provided by a permanent easement or other right-of-way no less than 20 feet wide. However, no more than one lot may be served by such an access route. After the effective date of this amendment, no such lots shall be created.

(Ord. No. 31.43, § 1, 2-4-2013)

**Editor's note**— Effective date of Ord. No. 31.43, adopted Feb. 4, 2013 is Feb. 10, 2014.

##### Sec. 15.04. - Building grades.

The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

##### Sec. 15.05. - Required water supply and sanitary sewerage facilities.

Any structure erected for human occupancy after the effective date of this ordinance and used for dwelling, business, industrial, or recreational purposes shall be provided with a safe, sanitary, and potable water supply, and with a safe and effective means of collection, treatment, and disposal of human, commercial, or industrial wastes. All such installations shall comply with the requirements of the State of Michigan and the Mid-Michigan District Health Department.

Sec. 15.06. - Moving buildings.

No existing building or other structure within or outside of Bath Charter Township shall be relocated upon any parcel or lot within the township unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site; the building and all materials therein are in conformity with the applicable building code of Bath Charter Township; and the building or structure can be located upon the parcel and conform to all other requirements of the respective zoning district.

The compatibility of general character and design shall be determined in the first instance by the township zoning administrator upon review of the structure, subject to appeal by an aggrieved party, to the zoning board of appeals within a period of 15 days from the receipt of notice of said zoning administrator's decision. Any determination of compatibility shall be based upon the standards set forth in the definition of "dwelling", see section 3.02, as well as the character and design of one or more structures or otherwise compatible with similar structures in zoning district located within 2,000 feet of the subject parcel. A moving permit shall be issued by the zoning administrator upon evidence of compliance with the requirements herein.

Sec. 15.07. - Prior building permits.

Any building permit issued prior to the effective date of this ordinance shall be valid even though not conforming to the provisions of this ordinance; provided, that construction is commenced within 90 days after the date of permit issuance and carried on diligently without interruption for a continuous period in excess of 90 days.

Sec. 15.08. - Fences, walls and screens.

The following regulations shall apply to all fences, walls, screens, or similar devices:

- A. No fence, wall, sign, or screen or any planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within 30 feet of the point of intersection of two streets.
- B. No fence, wall, sign, screen, or planting over three feet high shall be erected or maintained within the required setback from the street right-of-way, or which obstructs motorist's vision or traffic visibility.
- C. No temporary fence shall be installed to exceed six months; see sections 3.02(39) and (40).

Sec. 15.09. - Accessory buildings.

Accessory buildings, except as otherwise permitted in the [this] ordinance, shall be subject to the following regulations:

- A. An accessory building, including carports attached to the principal building, shall be made structurally a part thereof, and shall comply in all respects with the requirements of this ordinance applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor area.
- B. An accessory building, unless attached and made structurally a part of the principal building, shall not be closer than ten feet to any other structure on the lot.

- C. No accessory building shall be closer than ten feet to any interior side or rear lot line.
- D. Accessory buildings are subject to all setback requirements from the street applying to the principal building; provided, however, when topographic conditions prevent compliance with this provision, the board of zoning appeals may vary the above requirements in such a manner as to contribute to the public safety and general welfare.
- E. An accessory building shall not occupy more than 30 percent of the area of any rear or front yard.
- F. No detached residential accessory building shall exceed 20 feet in height. Detached accessory buildings for other uses may be constructed to equal the permitted maximum height of structures in said districts, subject to board of zoning appeals approval if the building exceeds 20 feet in height. This restriction shall not apply to agriculturally oriented accessory structures.

Sec. 15.10. - Variance of requirements for lots of record.

Any residential lot created and recorded prior to the effective date of this ordinance may be used for residential purposes even though the lot area and/or dimensions are less than those required for the district in which the lot is located. Provided that:

- A. Yard dimensions and other requirements of the district, not involving lot area or width, are met.

Sec. 15.11. - Allocation of lot area.

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

Sec. 15.12. - Yard encroachments permitted.

The following elements of structures may extend or project into the required yard area:

- A. Certain architectural features such as cornices, eaves, gutters, chimneys, bay windows, and similar features.
- B. Unenclosed or unroofed ground level patios, paved terraces, and similar features allowing unimpeded emergency access to the side or rear of the principal building.
- C. Non-covered terraces, patios, porches, decks and similar features, including steps leading to the structure shall be permitted to encroach upon the minimum side and rear yard setback requirements provided the encroachments are:
  - 1. Not covered with a roof;
  - 2. No such encroachment shall exceed 15 percent of the required setback. By way of example, for a required setback of 50 feet, the encroachment shall not exceed 7.5 feet, and for a required setback of 10 feet, the encroachment shall not exceed 1.5 feet.
  - 3. No portion of the floor of the encroaching structure permitted by this section shall be higher than the elevation of the principle structure's main floor.

(Ord. No. 31.56, § 1, 7-3-2017)

Sec. 15.13. - Front setback reductions.

Any front setback area in any district may be reduced below the minimum requirements when the average front setback of existing principal buildings within 200 feet of a proposed principal building location are less than the minimum required, in which case the required minimum front setback shall be based on the established average. Where the established setback is greater than the required minimum, the required setback for the proposed building shall be the average of the existing buildings.

Sec. 15.14. - Rear setback reductions.

When a lot of record has a depth of less than 120 feet prior to the effective date of this ordinance, the rear setback area of such lot may be reduced one-quarter of the distance of the lot depth less than 120 feet except that no rear setback area shall be reduced to a depth less than 20 feet and except further that if a rear lot line abuts an existing or proposed street, the zoning administrator may establish the required minimum rear setback, based on the setback averaging procedure set forth in section 15.13.

Sec. 15.15. - Requirements for lake frontage lots.

Residential lots having water frontage shall maintain the required rear yard open space, on the water side, as an open unobscured space, excepting that a covered or uncovered boat well shall be permitted.

Sec. 15.16. - Requirements for double frontage lots.

In the case of double frontage lots (interior lots having frontages on two more or less parallel streets) all sides of said lots adjacent to streets shall be considered frontage and front yards shall be provided as required.

Sec. 15.17. - Access through yards.

Access drives may be placed in the required front or side yards so as to provide access to the rear yard and/or accessory or attached structures. Further, any walk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.

Sec. 15.18. - Height requirements exceptions.

The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

- A. Those purely ornamental in purpose, such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments.
- B. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height.
- C. Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five feet above height limitations and shall have no window openings.
- D. Public utility structures.
- E. Agriculture-related structures, such as barns, silos, elevators and the like.



Sec. 15.19. - Use of temporary buildings and structures.

Temporary buildings and structures other than those stipulated in section 19.19 may be placed on a lot or parcel of record and occupied only under the following conditions:

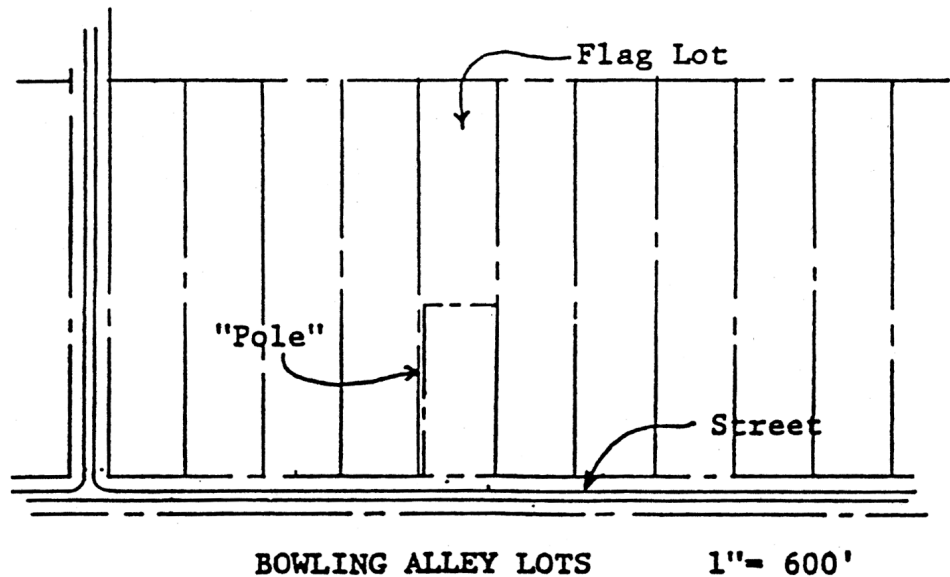
- A. During renovation of a permanent building damaged by fire, the temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than 90 days.
- B. Temporary buildings and structures incidental to construction work, except single-family residences. Said temporary building shall be removed within 15 days after construction is complete, but in no case shall the building or structure be allowed more than 12 months, unless expressly authorized after petition to the board of zoning appeals.
- C. Semi-trailers or modified wheel vehicles shall not be used for storage of materials of any kind, except as in section 15.19B above; this provision would include single-wide mobile homes.
- D. Temporary building incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the fire chief and building inspector, and by relevant state agencies.

Sec. 15.20. - Use of flag lots.

A flag lot (see article III, definitions) shall not be created after the effective date of this amendment. Flag lots of record created prior to said date may be used for residential purposes without the minimum required frontage on a street in the following instances and subject to the following conditions:

- A. Where a flag lot makes it possible to better utilize irregularly shaped properties or areas with resource limitations, such as "bowling alley" lots.
- B. Conditions:
  - (1) Access shall be provided by a right-of-way called a "pole" no less than 20 feet wide, and the "pole" must be owned in fee simple by the owner of said flag lot, or shall consist of a permanent easement running with the lot.
  - (2) No more than one lot may be served by such an access route.
  - (3) All site development standards of the applicable zoning district shall be met with the original parcel having legal frontage as required by said zoning district, plus 20 feet for the "pole."
  - (4) The "pole" portion of the flag lot shall not be considered as part of a lot in the application of site development standards, such as: lot area, lot width, lot coverage and yard and setback provisions.
  - (5) Flag lots shall not be permitted in a subdivision or site condominium.

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(Ord. No. 31.43, § 2, 2-4-2013)

**Editor's note**— Effective date of Ord. No. 31.43, adopted Feb. 4, 2013 is Feb. 10, 2014.

Sec. 15.21. - Functional families.

- A. Functional families shall be permitted in all districts which permit residential use, subject to an approved special use permit, as provided by article XIX of this zoning ordinance.
- B. Functional families shall not occupy a dwelling containing less than the minimum square footage of floor area required in the zoning district wherein said dwelling is located, and the number of such residing in said dwelling shall not exceed one person for each 250 square feet of floor area, exclusive of any basement.
- C. Parking spaces shall be provided at the ratio of one space per occupant who is 16 years of age or older.

Sec. 15.22. - Lighting.

Exterior lighting shall be so arranged that it is deflected away from adjacent properties, and so that it does not interfere with the vision of motorists along adjacent streets. Flashing or intermittent lights shall not be permitted.

Sec. 15.23. - Wild animals.

The definition of a "wild animal" shall include any animal which a person is prohibited from possessing by law. Any animal which is likely to bite without provocation or has a known propensity to attack or injure human beings or household pets, including but not limited to alligator (family), deer (family), opossum (family), badger, dog (wild family), primate (family), bear, dog-wolf, raccoon, bird (wild), ferret, skunk, cat (wild family), spider (poisonous), coyote, lizard (poisonous), weasel (family), Marten or any hybrid animal which is part wild. For clarification, a household pet is any domesticated animal kept for friendship, excluding livestock and wild animals.

- A. Intent. This section provides standards intended to promote the public health, safety, and general welfare and to reduce hazards to life and property.
- B. Excluding any lawfully certified/licensed zoo, circus or laboratory where the care or custody of the wild animal is under an attendant at all times. Any person possessing a wild animal prior to 1990 who is not in compliance with the standards of this township zoning ordinance, as amended, shall be deemed a nonconforming use permitted

to continue for not more than six months. After such time the use shall cease to exist or shall conform to the requirements of this ordinance.

- C. Acquisition and possession of any wild animal shall be in accordance with all federal, state and local laws and regulations.
- D. The owner of a wild animal must provide proof of liability insurance which specifically covers the wild animal; also, a special use permit is required.
- E. A wild animal shall be housed on a site of at least 20 acres, and no more than one wild animal may be allowed on a 20-acre site.
- F. No person shall possess more than two wild animals.
- G. A wild animal shall be confined by secure fencing or other enclosures that will insure the confinement of the wild animal within the approved, permitted location.
- H. Any wild animal cage or confinement area shall be at least 100 feet from any property line or street right-of-way.

Sec. 15.24. - Adult entertainment establishments.

- A. *Purpose.* The purpose and intent of this section is to regulate the location of, but not to exclude, adult businesses in Bath Charter Township by preventing the concentration of such uses in close proximity to each other and to minimize the negative impacts of their operation by separating such uses from residential, office/commercial and other areas of public congregation. This regulation is done with the understanding that the township recognizes that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly if several of them are concentrated under circumstances having a deleterious effect upon adjacent residential, office and commercial areas. The township recognizes that the regulation of such uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of surrounding residential neighborhoods, nonresidential areas or other places of public congregation.
- B. *Definitions.* As used in this section:
  - (1) *Adult bookstore* means an establishment which excludes minors, as defined in MCL 722.51 et seq., and has, as a significant portion of its stock in trade, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion pictures films and/or videotapes, or novelty items or paraphernalia which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such material which exceeds 35 percent of the floor area of the establishment.
  - (2) *Adult business* means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors and nude modeling studios, or any combination thereof, as defined in this section, which meets one or more of the criteria defined in paragraph 15.24 B.(3).
  - (3) *Adult business, significant portion* means a business where a significant portion of the stock in trade or services provided meets at least one of the following criteria:
    - a. Thirty-five percent or more of the stock, materials, novelties or services provided are classified as adult materials and/or services as defined herein.
    - b. Thirty-five percent or more of the usable floor area of the building in which the adult business is located, is used for the sale, display and/or provision of services classified as adult materials and/or services, as defined herein.
    - c. The advertising (signs, publications, television, radio, and other media) associated with the business depicts,

describes or relates to specified sexual activities and/or specified anatomical areas.

- (4) *Adult cabaret* means an establishment (which may or may not include the service of food or beverages) having as an activity the presentation or display of male or female impersonators, dancers, entertainers, waiters, waitresses or employees who display specified anatomical areas as defined here.
- (5) *Adult motion picture theater* means an establishment, in a completely enclosed building or room, which excludes minors, as defined in MCL 722.51 et seq., and offers, for an admission fee, membership fee or other valuable consideration, the viewing of motion picture films, videotapes, pictures or photographs, cable television, satellite transmissions or the visual media, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for the observation of patrons therein.
- (6) *Adult novelties* means objects, items, and/or devices offered for sale which are designed for sexual stimulation or which stimulate human genitals.
- (7) *Adult personal service business* means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include, but are not limited to, modeling studios, body painting studios, wrestling studios, personal dance rooms, and conversation parlors.
- (8) *Buttock* includes the perineum and anus of any person.
- (9) *Massage parlor* means an establishment wherein private massage is practiced, used or made available as a principle use of the premises.
- (10) *Massage* means offering for sale through the use of physical, mechanical or other devices, the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating of the body of another.
- (11) *Nude modeling studio* means a place which offers as its principle activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee.
- (12) *Offered for sale* means offered in exchange for money, a membership fee or any other valuable consideration.
- (13) *Sodomy* means sexuality bestiality.
- (14) *Specified anatomical areas* means:
  - a. Human male genitals in a discernible turgid state, even if completely and opaquely covered; or
  - b. Less than completely covered:
    1. Female breasts below the point immediately above the top of the areola;
    2. Human genitalia and the pubic region; and
    3. A buttock and anus.
- (15) *Sexual intercourse* includes genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any person's body.
- (16) *Specified sexual activities* are defined as:
  - a. Acts of human masturbation, sexual intercourse or sodomy;
  - b. Fondling or other erotic touching of human genitalia, a pubic region, a buttock, an anus or a female breast.
  - c. Human genitalia in a state of sexual stimulation or arousal.

C. *Location of uses.* Any existing building or land, or new building hereinafter erected, converted or structurally altered, used for an adult business, shall be located in the D development district and shall meet all of the following conditions:

- (1) No adult business, as defined herein, shall be permitted within a 1,000-foot radius of an existing adult business. of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the propo will be situated.
- (2) No adult business, as defined herein, shall be permitted within a 1,000-foot radius of any residentially used or zoned land as depicted on the official zoning map and defined in this zoning code. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.
- (3) No adult business, as defined herein, shall be permitted within a 1,000-radius [1,000-foot radius] of a school, library, park, playground, licensed group day care center, church, convent, monastery, synagogue or similar place of worship or other place of public congregation. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.

D. *Miscellaneous requirements:*

- (1) No person shall reside in or permit any person to reside in the premises of an adult business.
- (2) The provisions of this section regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the State of Michigan, or who is permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the State of Michigan, clergymen, certified members of the American Massage Therapy Association and certified members of the International Myomassethics Federation who have a current massage therapist license.

(Ord. No. 31.18, 3-23-1997)

**Editor's note**— There is another Ord. No. 31.18 that pertains to condominiums.

[Sec. 15.25. - Site condominium.]

A. *Purpose.*

The purpose of this section is to ensure that plans for site condominium developments within Bath Charter Township proposed under the provisions of the Condominium Act, Act 59 of Michigan Public Acts of 1978 (MCL 559.101 et seq.), 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 Michigan Subdivision Control Act, Act 288 of the Public Acts of 1967, (MCL 560.101 et seq.) as amended. It is also the intent of this section to ensure that such development is in conformance with the requirements of this zoning ordinance, as amended; the Bath Charter Township Subdivision Control Ordinance, as amended; and other applicable township ordinances and state and federal regulations.

- B. *Approval required.* All proposals to divide property other than according to the subdivision control act (MCL 560.101 et seq.) must go through the Bath Charter Township Zoning Ordinance site plan review process. In determining whether to approve a site plan for a site condominium, the planning commission shall consult with the building and zoning official, public safety, schools, township attorney, county drain commission and county road commission, regarding the adequacy of the master deed, deed restrictions, utility systems and streets, site layout and design, and compliance with all requirements of the condominium act (MCL 559.101 et seq.) and this ordinance. A special use permit may be required for a site condominium project where the provisions of particular sections of this ordinance identify the need for such a permit.

C. *General requirements:*

1. No construction, grading, work, or other development shall be done upon the land intended to be used for a site condominium until a final site plan has been approved, except with express permission of the planning commission permits for erosion or sanitary sewage facilities shall be issued for property in a site condominium development until a site plan has been approved by the planning commission and is in effect. This requirement shall include contractible conversion, and expandable site condominiums.
  2. A building, structure, or use to be placed on a condominium lot requires site plan approval under article XX of the Bath Charter Township Zoning Ordinance before a certificate of zoning compliance may be issued.
  3. The planning commission shall have the authority to review and approve or deny preliminary and final site plans for site condominiums.
  4. Each site condominium unit shall be located within a zoning district that permits the proposed use and can include commercial, industrial or residential buildings.
  5. The building envelope and the limited commons area together in a site condo development is considered the functional equivalent of a standard subdivision "lot". The total of these site condo lots shall not cover more than 75 percent of the total land area in the site condo development, thereby leaving a minimum of 25 percent for general commons area.
  6. The site condominium developments must meet the use and dimensional requirements of the zoning district in which they are located.
  7. For the purposes of this ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located. In the case of a site condominium containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from the boundaries of a condominium lot. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium lot.
  8. Each condominium lot shall be connected to public water and sanitary sewer facilities or have an approved water/utility system by the appropriate county and/or state agencies.
  9. Relocation of boundaries between adjoining condominium lots, if permitted in the condominium documents, as provided in section 48 of the condominium act (MCL 559.148), shall comply with all regulations of the zoning district in which located and shall be approved by the building and zoning official. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
  10. Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in section 49 of the condominium act (MCL 559.148), shall comply with all regulations of the zoning district in which located and shall be approved by the planning official. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
  11. All information required by this ordinance shall be updated and furnished to the township and the applicable certificates of zoning compliance must be approved prior to the issuance of the building permits.
- D. *Preliminary site plan requirements:*
1. A preliminary site plan shall be filed for review with the planning commission on or before the time the notice of proposed action is filed with the building and zoning official.
  2. The preliminary site plan shall include all land that the developer intends to include in the site condominium project and prepared in accordance with the following requirements. Fifteen copies of the site plan shall be submitted to the township. The preliminary plan shall be drawn at a scale of not more than 100 feet to the inch

and shall include or be accompanied by the following information:

- a. The name of the project; the name and address of the developer; the name, address and seal of a registered surveyor or engineer preparing the plan; and a description of the property to be developed.
- b. A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.
- c. North arrow, scale, contour interval, and legend when appropriate.
- d. Contour elevations adjusted to USGS datum at not more than five-foot intervals.
- e. Where appropriate, establish floodplain contours and elevations adjusted to USGS datum.
- f. The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property.
- g. The lot lines, intended layout, and intended use of the entire property owned or represented by the developer. The following shall be included:
  - (1) Street and sub-street right-of-way locations, width and curve radii.
  - (2) Proposed street names.
  - (3) Boundaries of all limited common elements, general common elements and building envelopes.
  - (4) Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten square feet.
- h. The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
- i. The locations and tentative sizes of proposed sanitary sewers, storm sewers, and catch basins, water mains, culverts, bridges, ponding areas, ponds, and lagoons.
- j. Statements regarding:
  - (1) Intent to utilize private water or sewage facilities.
  - (2) Zoning and lot size requirements.
  - (3) Zoning requirements for front, side and rear yards.
  - (4) Side and type of street(s).
  - (5) Intent to install gas, sidewalks, street lights, and shade trees.
  - (6) Use of rivers, streams, creeks, lakes or ponds.
- k. The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the master deed.

E. *Final site plan requirements:*

1. A final site plan for any phase of development shall not be filed for review by the planning commission unless a preliminary site plan has been approved by the planning commission and is in effect.
2. A final site plan shall be filed for review by the planning commission for the total site condominium project or for each phase of development shown on the approved preliminary site plan.
3. In addition to the provisions of this section of the ordinance, the final site plan shall meet the requirements of Article XX of the Bath Charter Township Zoning Ordinance.
4. A final site plan shall include all information required in section 66 of the condominium act (MCL 559.148), and the master deed and bylaws. The final site plan shall also include all information required in article XX of this ordinance. (Exception: In the case of a site plan application for a site condominium project that consists only of

condominium lots with no buildings or other structures, the locations of and the dimensions of condominium lots, setbacks, and required yards need not be shown on the final site plan).

5. The applicant shall provide proof of approvals by all county and state agencies having jurisdiction over the improvements in the site condominium development, including but not limited to, the county drain commissioner, Clinton County Road Commission, township agencies, and the Mid-Michigan District Health Department. The planning commission shall not approve a final site plan until each county and state agency having such jurisdiction has approved that portion of the final site plan that is subject to its jurisdiction.
- F. *Revision of site condominium subdivision plan.* If the site condominium subdivision plan is revised, the final site plans shall be revised accordingly and submitted for review and approval or denial by the planning commission before any building permit may be issued, where such permit is required.
- G. *Streets and roads.* Except as otherwise provided in this section, all streets and roads proposed for any site condominium shall be dedicated to the public and developed in accordance with the minimum design, construction, inspection, approval and maintenance requirements of the Bath Charter Township subdivision control ordinance and the Clinton County Road Commission. Private streets and roads shall be permitted only in commercial site condominium developments and shall be built and maintained in accordance with the standards and requirements of the Clinton County Road Commission.
- H. *Dedication of private streets.* Section H, "dedication of private streets," shall be and is hereby deleted.
- I. *Amendment to master deed or bylaws.* Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, shall be reviewed and approved by the planning commission before any building permit may be issued, where such permit is required. The planning commission may require its review of any amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.
- J. *Relation to subdivision ordinance.* All site condominiums shall conform to the design, layout, and improvements standards of the Bath Charter Township Subdivision Control Ordinance inclusive, and any financial guarantees determined to be necessary by the planning commission. The standards and requirements of these sections that are intended to apply to lots in a subdivision shall apply instead to condominium lots. Nothing in this section shall be construed as requiring a site condominium to obtain plat approval under the Bath Charter Township Subdivision Control Ordinance or the Michigan Subdivision Control Act.
- K. *Development agreement.* The planning commission may require, as a condition of approval, that the applicant enter into a development agreement with the Bath Charter Township, incorporating the terms and conditions of final site plan approval and record the same in the office of the Register of Deeds for Clinton County.
- L. *Construction located in general common element.* Any application for a building permit for construction to be located in a general common element shall include written authorization by the condominium association for the application.
- M. *Monuments and lot irons.* Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

The township engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the township clerk cash, a certified check, or any irrevocable bank letter of credit running to the Bath Charter Township, whichever the developer selects, in an amount as determined from time to time by resolution of the township board of trustees. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and



irons have been set as required, within the time specified. If the developer defaults, the township board of trustees shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

- N. *Rights-of-way and utility easements.* All rights-of-way and utility easements shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities. The developer shall dedicate to the appropriate agency all easements for utilities. All streets shall be dedicated to the County of Clinton and shall be constructed in accordance with the standards of the Clinton County Road Commission. Water, sewer and electrical easements may be placed within streets, subject to the approval of the township engineer and the standards of the Clinton County Road Commission.
- O. *Improvements.* All improvements in a site condominium shall comply with the design specifications as adopted by Bath Charter Township and/or the appropriate Clinton County agency and any amendments thereto from time to time.

[P.] *Definitions:*

*Building envelope.* The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condo project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.

*Building site or condominium lot.* The building envelope and the limited commons area together in a site condo development is considered the functional equivalent of a standard subdivision "lot".

*Condominium act.* The Condominium Act, Act 59 of Michigan Public Acts of 1978, as amended (MCL 559.101 et seq.).

*Condominium building or structure.* The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; i.e., in a residential development, the condominium structure would refer to the house and any attached garage. A "condominium structure" can also be a "building envelope".

*Condominium project or site condominium subdivision project.* A condominium project developed under Public Act 59 of 1978, (MCL 559.101 et seq.) as amended, consisting of more than one condominium unit which is not subject to the provisions of the Subdivision Control Act 288 of 1967, (MCL 560.101 et seq.) as amended.

*General commons elements/areas.* "General common elements" means the land area other than the limited commons areas of the site condominium development that are held in common by all co-owners and used for parks, streets, open space or other common activities.

*Limited commons elements/areas.* "Limited common elements" means a portion of the general commons elements reserved in the master deed for the exclusive use of less than all of the co-owners and used for landscaping, vehicle parking areas, or driveways.

*Master deed.* The condominium document recording the condominium project, to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project. All other information required by section 8, of the Michigan Condominium Act (MCL 559.108) are included.

*Mobile home condominium project.* A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

*Setback—front, side and rear yard.* Distance measured from the respective front, side and rear yard boundary lines associated with the building lot to the respective front, side and rear of the condominium structure/building envelope.

*Site condominium.* A condominium development containing residential, commercial, office, industrial or other structures or improvements for uses permitted in the zoning district in which it is located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

*Site condominium unit.* A condominium unit established in compliance with the condominium act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

(Ord. No. 31.18, 3-23-1997; Ord. No. 31.43, § 3, 2-4-2013; Ord. No. 31.44, § 1, 2-4-2013)

**Editor's note—** Ord. No. 31.18 was included as Zoning Ordinance § 19.201, as the township advised that it was intended this such ordinance amend the zoning ordinance. There is another Ord. No. 31.18 that relates to adult uses.

#### Sec. 15.26. - Wind energy conversion systems.

(1) *Intent and purpose.*

A. It is the purpose of this article to establish regulations and conditions for wind energy conversion systems which are applicable to all districts of this ordinance unless otherwise indicated. This article is intended to provide for the safe, effective, an efficient regulation of small and large wind energy conversion systems whether they are tower mounted or structure mounted.

(2) *Small wind energy conversion systems (WECS).* The following standards shall apply to all small WECS as defined herein.

A. Small WECS are permitted by right, subject to conditions, in all zoning districts regulated by the Bath Charter Township Zoning Ordinance.

B. A zoning compliance certificate (section 15.26(2)O) and building permit are required prior to construction (installation) of a small WECS.

C. For all zoning districts other than the D development district, the total height for a tower mounted small WECS, which includes the tower and the rotor (blade), shall not be greater than 45 feet.

The total height for a tower mounted small non-residential WECS in the D development district, shall not be greater than 70 feet. The total height shall be measured from the ground level at the base of the tower to the maximum vertical extension of the blade.

D. The total height for a structure mounted small WECS in all zoning districts shall not exceed 15 feet as measured from the highest point of the adjacent roof or structure, excluding chimneys, antennae or other similar features.

E. The minimum site area for a tower mounted small WECS shall be equal to the minimum lot area requirements of the zoning district in which the small WECS is located plus any additional lot area required to meet setback requirements of this section.

F. The minimum site area for a structure mounted small WECS shall be equal to the minimal lot area requirements of the zoning district in which it is located.

G. For structure mounted small WECS, documentation shall be submitted by a registered design professional, with details pertaining to the structure's ability to sustain all loads imposed.

- H. Setbacks: A tower mounted small WECS shall be set back a distance equal to one and one-quarter times the height of the tower measured from the top of its blade in vertical position from all adjoining property lines, easements, or rights-of-way. No part of a small WECS may extend into any adjacent yard or property unless an easement has been recorded for that purpose.
- A structure mounted small WECS shall meet the setback requirements of the zoning district in which it is located.
- I. Ground clearance: A tower mounted WECS must have a minimum ground clearance of 20 feet between the lowest extension of the rotor blade and the average grade at the base of the structure.
- J. Noise: The WECS shall not cause sounds in excess of 55 dB(A) as measured at any property line and/or meet the requirements of any existing noise ordinance, the requirements of a special use permit, the requirements of the building officials review, or other applicable regulations.
- K. Wind turbine structural plans: A building permit application for a small WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. If structure-mounted, an engineering analysis demonstrating compliance with the State Building Code and certified by a licensed professional engineer shall also be submitted.
- L. WECS removal: The WECS owner shall advise the township of discontinuance of WECS use or abandonment within 60 days of such discontinuance or abandonment. Any WECS that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such WECS shall remove the same within 90 days of receipt of notice from the township notifying the owner of such abandonment. Failure to remove an abandoned WECS within said 90 days shall be grounds for the township to remove the WECS at the owner's expense.
- M. Structure mounted small WECS shall meet the following additional requirements: shall not be attached to a roof system or that portion of a structure facing a public road, may be attached to principal or accessory structures providing all other requirements of this section are met, shall not utilize guy wire supports, and may not contain commercial advertising.
- N. There may be more than one tower and/or structures mounted small WECS systems per parcel or lot if all requirements of this section are met, and the additional units are permitted by special use permit approval.
- O. The zoning compliance certificate permit and building permit application for any small WECS and accessory tower/structure mounted WECS must include:
1. A project summary, including: (1) a general description of the project, including its approximate name plate capacity, the potential equipment manufacturer(s), type(s), of the WECS(s), number of WECS(s) and capacity of WECS, the maximum height and diameter of the WECS rotors, the general location of the project; (2) a description of the applicant, owner and operator, including their respective business entities.
  2. The name(s), address(s) and phone number(s) of the applicant(s) and property owner(s).
  3. A description for the location of the WECS tower and/or structure mounted system and the location of property lines of adjoining property owners.
  4. A site plan for the installation of the WECS, showing location of each WECS tower, primary structures, property lines, setback lines, height, ancillary equipment and layout of all structures within geographical boundaries of any applicable setbacks.
  5. An evaluation prepared by appropriate professionals of the likely impact of the proposed WECS on vibration, shadow flicker, and aesthetic impact on adjoining properties as well as any other information required to demonstrate compliance with this ordinance or any other ordinance of the township, county, state, or federal government.

6. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of section 15.26(2) and this ordinance.
  7. Documentation that the proposed WECS shall be properly grounded to safely sustain natural lightening strikes.
  - P. A small WECS system shall not utilize guy wires for support, shall not contain or display commercial advertising, and shall utilize non-reflective surfaces and neutral colors to the maximum extent feasible.
  - Q. An approved small WECS is exempt from the height restrictions of the zoning district in which it is located. This exemption does not apply to accessory tower/structure mounted WECS.
- (3) *Large wind energy conversion systems (WECS)*. The following standards shall apply to all large Wind Energy Conversion Systems (WECS) as defined herein.
- A. Large WECS require a special use permit, a zoning compliance certificate, and a building permit prior to construction/installation and operation.
  - B. Large WECS are permitted by special use permit only in the R rural zoning district and the D development zoning district.
  - C. The application for a special use permit must be accompanied by:
    1. An evaluation prepared by appropriate professionals of the likely impact of the proposed WECS in the following areas:
      - a) Noise and vibration impacts at any property line.
      - b) Potential impact on wildlife, including native and migrating birds.
      - c) Shadow flicker and glare impacts on adjacent properties.
      - d) Aesthetic impact of the WECS on adjoining properties.
    2. The following information must be detailed to supplement the site plan required for a special use permit application:
      - a) Property lines, dimension, acreage and contours with appropriate intervals for site evaluation.
      - b) Location and elevation of the proposed large WECS.
      - c) Locations and dimensions of all existing structures and uses on the lot within 300 feet of the system.
      - d) Height of any structures or trees over 35 feet within a 500 foot radius, on-site or off-site of the proposed large WECS.
      - e) Surrounding land use and structures, irrespective of height, within 500 feet of the large WECS location.
    3. Additional information required:
      - a) Standard drawings of the structural components of the large WECS, including structures, tower, base and footings. A registered engineer shall certify drawings and any necessary calculations demonstrating that the system complies with all applicable local, state and federal building, structural and electrical codes.
      - b) Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site.
      - c) Registered engineer's certification of the design and safety for the proposed tower to withstand any high wind speeds, and that the large WECS can be operated successfully on the subject property.
  - D. *Setbacks*:

A large WECS shall maintain a minimum setback of one and one-quarter times the total height of the tower to the top of the blade in its vertical position from any property line, easement, or rights-of-way, and no part of a large WECS may extend into any adjacent yard or property unless an easement has been recorded for that purpose.

E. *Dimensional requirements:*

1. A large WECS shall not exceed a total tower and blade height of 110 feet. The total height shall be measured from the ground level at the base of the tower to the maximum vertical extension of the blade. The planning commission may recommend a tower and blade height up to a maximum of 140 feet based on a request by the applicant and wind energy monitoring data which justifies the request.
2. In all cases, the minimum height of the lowest position of the large WECS blade shall be at least 30 feet above the ground.
3. An approved large WECS is exempt from the height restrictions of the zoning district in which it is located.
4. A large WECS shall be located on a minimum site area of one acre or larger plus any additional area required to meet the setback requirements of this section.

F. *General siting and design standards.*

1. A large WECS shall meet all federal, state and local aviation requirements, which shall include, but not be limited to, air traffic warning lights or other marking lights, and shall be positioned to avoid undue visual impact on neighboring properties.

G. *Safety measures:*

1. Each large WECS shall be equipped with both manual and automatic controls to limit the rotation or speed of the rotor blade so it does not exceed the design limits of the rotor.
2. Each large WECS shall be properly grounded to safely sustain natural lightening strikes.
3. A large WECS shall not include any sign or advertising of any kind, except for an informational sign no larger than two square feet in area posted at the base of the tower, which shall contain the following information:
  - a) "WARNING: HIGH VOLTAGE";
  - b) Manufacturer's name;
  - c) Operator's name;
  - d) Emergency telephone number;
  - e) Emergency shutdown procedures.

Additionally, each large WECS shall receive approval from the respective public safety agency regarding emergency response and rescue procedures and the applicant shall be responsible for any additional costs relative to this service.

H. *Radio and television interference:*

A large WECS shall be designed and constructed so as not to cause radio and television interference.

I. *Removal of a large WECS:*

The WECS owner shall advise the township of discontinuance of WECS use or abandonment within 60 days of discontinuance. Any WECS that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such WECS shall remove the same within 90 days of receipt of notice from the township notifying the owner of such abandonment. Failure to remove an abandoned WECS within said 90 days shall be grounds for the township to remove the WECS at the owner's expense. The township may, as a condition

of special use permit approval, require a financial guarantee in the form of a performance bond, cash deposit or irrevocable letter of credit to provide sufficient funds for the removal of an abandoned WECS and facilities associated therewith.

- (4) *Accessory tower/structure mounted WECS.* Accessory tower/structure mounted WECS which provide off-the-grid energy sources for site lighting and/or other stand alone site energy needs shall comply with the requirements of section 15.26(2)O, the height requirements of the district in which it is located, and shall be administratively reviewed for compliance by the zoning official. Accessory tower/structure mounted WECS may also be reviewed as part of site plan review (chapter VII)[article XX] and are permitted in all zoning districts with the exception of the L low density and M medium density residential districts. Accessory tower/structure mounted WECS may be combined with photo voltaic systems which meet the requirements of the building official.
- (5) *Utility scale wind energy systems.* Utility scale wind energy systems shall be subject to the requirements of the wind energy overlay zoning district. *(Note: To be developed)*
- (6) *Wind energy monitoring station.* A wind energy monitoring station is permitted by right in all zoning districts, shall not exceed the maximum height required to monitor wind data for any potential WECS permitted in that zoning district, shall require review and approval by the building official, and shall be removed within 14 months from the installation date.
- (7) *Construction codes, towers, interconnection standards.* Small and large WECS shall comply with all applicable state construction and electrical codes and local building permit requirements. WECS shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, and the Michigan Tall Structures Act.

(Ord. No. 31.39, 1-17-2012)

Sec. 15.27. - Medical marihuana primary caregiver facility.

A person who has been issued and possesses a registry identification card as a primary caregiver as set forth in the Michigan Medical Marihuana Act, and subject to the restrictions set forth in the definitions and requirements of the Act and the general rules of the Michigan Department of Public Health and this ordinance may furnish and provide the services of a registered primary caregiver as a home occupation, subject to the following restrictions:

- (a) All provisions of section (1), under the home occupation provision are applicable to this use unless modified by this section.
- (b) No signs or advertisements of any kind shall be permitted on the exterior of the structure or on the property.
- (c) The location from which a primary caregiver provides services to a qualifying patient shall be under the control, through written lease, contract, or deed, in favor of the primary caregiver, or to the qualifying patient. The primary caregiver must reside on the premises in order to be able to grow or cultivate the product at this location.
- (d) The use of a dwelling as a home occupation under this section shall be limited to one registered primary caregiver, provided however, that transfers of medical marihuana from the registered primary caregiver to his or her qualified patient not take place in the dwelling unless the patient resides in that dwelling. Medical marihuana shall be limited to the number of plants and the amount of usable marihuana permitted by the Michigan Medical Marihuana Act.
- (e) The location in which a primary caregiver grows, cultivates or otherwise provides services to a qualifying patient shall not be used by another primary caregiver, for that purpose.
- (f) No consumption of marihuana shall occur at a primary caregiver's location for cultivation/growing, or a primary caregiver's legal residence address, unless the primary caregiver is a qualifying patient, or living with the qualifying patient, and then such consumption shall only be by the qualifying patient and/or the primary caregiver who is a

qualifying patient.

- (g) The primary caregiver shall be the only person engaged in the conduct of a medical marihuana primary caregiver facility.
- (h) A medical marihuana primary caregiver facility shall not be located in a multiple family dwelling as defined by the Bath Charter Township Zoning Ordinance.
- (i) Primary caregivers who are allowed under state law to cultivate or grow marihuana for the qualifying patient(s) shall be subject to the requirements of building, electrical, plumbing and fire prevention code requirements of Bath Charter Township.

(Ord. No. 31.58, § 5, 1-16-2018)

ARTICLE XVI. - NONCONFORMING USES AND STRUCTURES

Sec. 16.01. - Purpose.

It is the purpose of this article to permit the continuance of a lawful use of any building or land existing at the effective date of this ordinance, although such use of land or structure may not conform with the provisions of this ordinance. It is recognized, however, that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction.

The zoning regulations established by this ordinance are designed to guide the future use of land in Bath Charter Township by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established, and thus their gradual elimination is generally desirable. The regulations of this article permit such nonconformities to continue without specific limitation of time but are generally intended to restrict further investments which would make them more permanent.

This article distinguishes between major nonconforming uses or structures and minor nonconformities. Different regulations are established for each of these categories. The degree of restriction over each category is a function of the degree to which that category of nonconformity is a nuisance or incompatible with the purposes and regulations of this ordinance.

Sec. 16.02. - Major nonconforming use or structure.

A. A major nonconforming use is any use listed in the table below for the district in which it is listed.

| Zoning district                  | Major nonconforming use |
|----------------------------------|-------------------------|
|                                  | Commercial use          |
| Rural district                   | Industrial use          |
|                                  | Commercial use          |
| Low-density residential district | Industrial use          |
|                                  | Commercial use          |

|                             |                |
|-----------------------------|----------------|
| Public lands and open space | Industrial use |
|                             | Commercial use |

- B. A major nonconforming use or structure shall not be changed to any use other than a use permitted in the zoning district in which it is located.
- C. Major nonconforming uses or structures shall not be reestablished in their nonconforming condition in any zoning district after damage or destruction, if the estimated expense of reconstruction exceeds 33 percent of the appraised replacement cost of the use or structure.
- D. If a major, nonconforming use ceases for any reason for a period of more than 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be re-established, and any future use shall be in conformity with the provisions of this ordinance.

Prior to termination of a nonconforming use due to abandonment, the township shall provide written notice by personal delivery or by first class mail of its intent to terminate such nonconforming use to the property owner as identified in the township's most recent real property tax rolls. Said notice shall also provide the date, time and place where and when a public hearing will be held on the question of such abandonment.

(Ord. No. 31.37, § 12, 4-19-2010)

Sec. 16.03. - Minor nonconforming use or structure.

- A. A minor nonconforming use or structure is any nonconforming use or structure which is not a major nonconforming use or structure.

Sec. 16.04. - Minor nonconforming uses of land.

Where, at the effective date of adoption or amendment of this ordinance, a lawful use of land exists that is 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. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- B. 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. Nonconforming uses shall not be changed to another nonconforming use, except after approval of the board of zoning appeals. Before granting such approval, the board shall determine that such change in use will have a less deleterious effect on neighboring properties than the existing nonconforming use.
- D. If such nonconforming use of land ceases for any reason for a period of more than 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. The time limit of discontinuance may be extended beyond the 90 days for a period of time not to exceed one year upon proper application to the board of zoning appeals within the 90 day period, and upon presentation of evidence that



an unnecessary hardship or practical difficulty would exist, should the 90 day limitation be strictly enforced. At the end of this period of abandonment, the nonconforming use shall not be re-established, and any future use shall be in conformity with the provisions of this ordinance. Seasonal nonconforming uses currently found in the township and which, by their nature, operate habitually or customarily during a given period of the year not exceeding 12 consecutive months, shall be exempted from this requirement.

Prior to termination of a nonconforming use due to abandonment, the township shall provide written notice by personal delivery or by first class mail of its intent to terminate such nonconforming use to the property owner as identified in the township's most recent real property tax rolls. Said notice shall also provide the date, time and place where and when a public hearing will be held on the question of such abandonment.

E. No nonconforming use shall be extended to displace a permitted conforming use.

(Ord. No. 31.37, § 13, 4-19-2010)

#### Sec. 16.05. - Minor nonconforming structures.

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 by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Nonconforming structures shall not be altered or expanded without the prior approval of the board of zoning appeals, except that the following structural alterations may be permitted without prior approval:
  - (1) Structural alterations or extensions adding to the bulk of a structure which is nonconforming only by reason of lot size, lot width or setback shall be permitted without prior approval of the board of zoning appeals provided that such structure alteration or extension shall not increase the extent of nonconformity and shall satisfy all other site development regulations which are applicable.
  - (2) Structural alterations which do not add to the bulk of structure or increase the intensity of use of the structure.
- B. Nonconforming buildings or structures may be structurally altered so as to prolong the life of the building or structure.
- C. Nonconforming structures may be re-established in their nonconforming condition in any zoning district after damage or destruction of the nonconforming structure, if such building or structure is nonconforming due only to its having an insufficient setback or due to its being located on a site having a size, width or both, less than prescribed in the applicable sections of this ordinance.

(Ord. No. 31.32, § 6, 10-20-2003)

#### Sec. 16.06. - Minor nonconforming uses of structures and land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
  - C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the board of zoning appeals, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of zoning appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this ordinance.
  - D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded or changed to a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and shall not revert back to a nonconforming use.
  - E. Where a nonconforming use of a structure, or a structure and premises in combination, is discontinued for 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. The time limit of discontinuance may be extended beyond the 90 days, for a period of time not to exceed one year, upon proper application to the board of zoning appeals within the 90 day period, and upon presentation of evidence that an unnecessary hardship or practical difficulty would exist should the 90 day limitation be strictly enforced. At the end of this period of abandonment, the structure or structure and premises in combination shall not thereafter be used, except in conformance with the regulations of the district in which it is located. Seasonal nonconforming uses of a structure or structures and premises currently found in the township which, by their nature, operate habitually or customarily during a given period of the year not exceeding 12 consecutive months, shall be exempted from this requirement.
- Prior to termination of a nonconforming use due to abandonment, the township shall provide written notice by personal delivery or by first class mail of its intent to terminate such nonconforming use to the property owner as identified in the township's most recent real property tax rolls. Said notice shall also provide the date, time and place where and when a public hearing will be held on the question of such abandonment.

(Ord. No. 31.37, § 14, 4-19-2010)

#### Sec. 16.07. - Repairs and maintenance.

Repairs and maintenance may be performed on any building devoted in whole or in part to a nonconforming use; including ordinary repairs or repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the assessed value (25 percent of true case value) of the building during any period of 12 consecutive months.

However, the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### Sec. 16.08. - Prior construction approval.

Nothing in this article shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed according to the plans filed with the permit application within two years after the issuance of the building permit.

To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this article, and upon which actual construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Sec. 16.09. - Change of 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.

Sec. 16.10. - Elimination of nonconforming use or structure.

The township board may acquire by purchase, condemnation or other means, private property or an interest in private property for the removal of any nonconforming use or structure. The cost or expense or a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory provisions.

ARTICLE XVII. - OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 17.01. - Purpose.

It is the purpose of these requirements that parking space shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles used by the occupants, employees or patrons of each building constructed or altered under the provisions of this ordinance.

Sec. 17.02. - Off-street parking general provisions.

At the time any building or structure is erected, enlarged or increased in capacity, or uses established, off-street parking spaces shall be provided as hereinafter prescribed:

- A. Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation shall be submitted to the zoning administrator for review at the time of application for a building permit.
- B. Off-street parking for other than residential uses shall be either on the same lot or within 500 feet of the building it is intended to serve, measured from the building entrance to the nearest point of the parking lot.
- C. No parking area which exists at the time this ordinance becomes effective and is provided for the purposes of complying with the provisions of this ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this ordinance.
- D. No commercial repair work, servicing or selling of any kind shall be conducted on any parking area except that which is specifically permitted by this ordinance. No items such as plastic animals, streamers, cloth signs, children's play area, mechanical entertainment devices or other similar devices shall be permitted in the parking area.
- E. Where the owners of two buildings, or uses, desire to utilize common off-street parking facilities, the zoning administrator may grant approval of such dual function off-street parking facilities, subject to a finding that the

following conditions have been met:

- (1) The common parking lot meets the off-street parking requirements of the larger building or use plus 33 percent of said requirement.
- (2) The common parking lot meets all locational requirements of this ordinance with respect to each building or use.

Sec. 17.03. - Schedule of requirements.

The attached material specifies the minimum number of off-street parking spaces by type of use. Please note that for uses not specifically mentioned, the board of zoning appeals may determine the parking requirements.

|    |               |   |   |
|----|---------------|---|---|
| A. | Residential   |   |   |
|    | (1)           | Residential one-family and two-family   | Two for each dwelling unit.   |
|    | (2)           | Residential multiple-family   | Two for each dwelling unit.   |
|    | (3)           | Homes for the aged, convalescent homes, family day care and adult foster care facilities/homes of all types | One for each employee on peak employment shifts, and additional parking as may be determined by the planning commission based on anticipated residency. |
| B. | Institutional |   |   |
|    | (1)           | Churches or temples   | One for each three seats or six feet of pews in the main unit of worship.   |
|    | (2)           | Hospitals   | One and one-half for each one bed plus one for each employee on peak employment shift.  |
|    | (3)           | Homes for the aged, convalescent homes, family day care and adult foster care facilities/homes of all types | One for each two beds plus one for each employee on peak employment shifts.   |
|    | (4)           | Elementary and junior high  | One for each one teacher, employee, or administrator, plus one for each classroom, plus required space for auditorium.                                  |
|    | (5)           | Senior high school and college  | One for each one teacher, employee, or administrator, one for each classroom, and one for each ten students, plus required space for auditorium.        |

|    |            |  |  |
|----|------------|--|--|
|    | (6)        | Private clubs, or lodges   | One for each three persons allowed within the maximum occupancy load as established by the fire marshal, plus one for each employee.   |
|    | (7)        | Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses | One for each two member families or individuals.   |
|    | (8)        | Golf courses open to the general public, except miniature or "par 3"         | Six for each one golf hole and one for each one employee.  |
|    | (9)        | Stadium and sports arena or similar outdoor place of assembly                | One for each five seats or ten feet of benches plus one for each employee.   |
|    | (10)       | Theaters and auditoriums   | One for each three seats plus one for each employee.   |
|    | (11)       | Libraries and museums  | One per 500 feet of gross floor space, plus one per employee.  |
|    | (12)       | Public utility   | One per employee.  |
|    | (13)       | Nursery school, day nursery or child care center                             | One for each 350 square feet of usable floor space.  |
| C. | Commercial |  |  |
|    | (1)        | Auto wash, hand or coin-operated   | Three waiting spaces at entry plus two drying spaces at exit, all on exterior of building, shall be provided on the premises for each bay.   |
|    | (2)        | Auto wash, automatic   | Fifteen waiting spaces at entry plus two drying spaces at exit, all on exterior of building, shall be provided on the premises for each wash lane, plus one space for each employee. |
|    | (3)        | Beauty parlor or barber shops  | Two for each chair.  |

|      |  |  |
|------|--|--|
| (4)  | Bowling alleys   | Eight for each bowling lane plus one for each employee, plus required parking for each auxiliary use such as restaurant, snack bar, etc. |
| (5)  | Dance halls, roller rinks, exhibition halls and assembly halls without fixed seats   | One for each 100 square feet of gross floor area.  |
| (6)  | Drive-in banks or laundries or restaurants (with drive-in window)  | Four waiting spaces for each drive-in window in addition to normal parking required for banks or laundries.                              |
| (7)  | Drive-in restaurants   | One for every three patron seats or one for each 30 square feet of usable floor area, whichever is greater.                              |
| (8)  | Establishments for sale and consumption on the premises of beverages, food or refreshments   | One for each 100 square feet of gross floor area.  |
| (9)  | Furniture and appliances, household equipment repair shops, showroom of a plumber electrician or similar trade, and other similar uses | One for each 800 square feet of usable floor area.   |
| (10) | Auto service stations  | Two for each lubrication stall, rack or pit; and one for each gasoline pump.   |
| (11) | Laundromats and coin-operated dry cleaners   | One for each two machines.   |
| (12) | Miniature or "par-3" golf courses  | Three spaces per hole plus three spaces for employees.   |
| (13) | Mortuary establishments  | One for each 25 square feet of assembly room floor space.  |
| (14) | Motel or hotel   | One space for each rental unit, plus one additional space for each employee.   |

|    |   |   |   |
|----|---|---|---|
|    | (15)  | Motor vehicle sales and service establishments  | One for each 200 square feet of floor area of sales room, one for each auto service stall in the service room, plus one for each employee.                                |
|    | (16)  | Retail stores except as otherwise specified herein  | One for each 150 square feet of usable floor area.  |
|    | (17)  | Planned commercial or shopping centers or discount department stores containing at least 25,000 square feet | Six per 1,000 square feet of gross leasable floor area.   |
| D. | Offices   |   |   |
|    | (1)   | Banks   | One for each 200 square feet of usable floor area.  |
|    | (2)   | Business offices or professional offices, except as indicated in the following item (3)                     | One for each 150 square feet of usable floor area.  |
|    | (3)   | Professional offices of doctors, dentists and similar professions   | One for each 150 square feet of usable floor area in waiting rooms, plus one for each examining room or dental chair, plus one for each doctor, dentist, or employee.     |
| E. | Industrial  |   |   |
|    | (1)   | Industrial or research establishments   | Five, plus one space on site for every two employees in the largest working shift, or one space for every 550 square feet of usable floor space, or whichever is greater. |
|    | (2)   | Wholesale or warehouse establishments   | One for every two employees in the largest working shift, or one for every 1,700 square feet of usable floor space, or whichever is greater.                              |
| F. | When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space. |   |   |

(Ord. No. 31.32, § 3, 10-20-2003)

Sec. 17.04. - Off-street parking development standards.

Whenever the off-street parking requirements in section 17.03 require the building of an off-street parking facility, such off-street parking lots shall be designed, constructed and maintained in accordance with the following standards and regulations:

- A. Plans for all off-street parking lots providing spaces for more than five vehicles shall be submitted as part of the site plan review process and must be approved by the planning commission prior to construction.
- B. Each off-street parking space for vehicles shall not be less than 180 square feet in area, exclusive of access drives or aisles.
- C. Each space shall be clearly marked and reserved for parking purposes.
- D. There shall be provided a minimum access drive of 20 feet in width and so located as to secure the most appropriate development of the individual property. Where a turning radius is necessary, it shall be of an arc that reasonably allows an unobstructed flow of vehicles.
- E. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.

The minimum width of such aisles shall be in accordance with the following minimum regulations:

| Parking Pattern      | Maneuvering Lane Width |                   | Parking space   | Parking Space    | Total Width of Two Tiers of Spaces Plus Maneuvering Lane |                   |
|----------------------|------------------------|-------------------|-----------------|------------------|--|-------------------|
|                      | One Way (In Feet)      | Two Way (In Feet) | Width (In Feet) | Length (In Feet) | One Way (In Feet)  | Two Way (In Feet) |
| 0 (parallel parking) | 11                     | 18                | 8.5             | 25               | 28   | 35                |
| 30—53                | 12                     | 20                | 9               | 21               | <u>54</u>  | 62                |
| <u>54</u> —74        | 13                     | <u>22</u>         | 9               | 21               | 55   | 64                |
| 75—90                | 15                     | 24                | 9.5             | 20               | 55   | 64                |

- F. All off-street parking areas shall be drained so as to eliminate surface water ponding and prevent drainage onto abutting properties. The surface of the parking lot, including drives and aisles, excepting landscaped areas, shall be constructed of a dustless and durable all-weather surface.
- G. Any lighting fixtures used to illuminate off-street parking shall be so arranged as to reflect the light away from any adjoining residential properties, institutional premises, or streets and highways; and shall be installed in such manner as to allow the reduction of the amount of light after normal parking hours each day.



- H. Where a parking area with a capacity of five or more vehicles adjoins a residential district, a buffer at least 20 feet in shall be provided between the parking area and the adjoining property and a vertical screen shall be erected consisting of structural (fence) or plant materials no less than five feet in height.
- I. Where a parking area with a capacity of five or more vehicles adjoins a public street, a buffer at least ten feet wide shall be provided between the parking area and the adjacent street right-of-way. Plantings or a berm shall be provided to screen the parking area from view along the entire length of this buffer strip. Plantings in this buffer area shall be maintained in a healthy condition. No more than two driveway approaches may be permitted to break this buffer from a major street or no more than one driveway from a minor street. When parking lots are larger than 50 vehicles, the required buffer shall be 20 feet between the parking area and the public street.
- J. In addition to any landscaping required in any particular district, all parking areas of ten or more vehicles shall be landscaped. Such landscaping shall be accomplished throughout, including the interior, of the parking area on the basis of 200 square feet of grass and planted area (including trees) for each ten parking spaces. All landscaping shall be adequately maintained in a healthy condition.

Sec. 17.05. - Off-street loading and unloading.

On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, laundry, dry cleaning, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interferences with public use of the streets, alleys, or any required access aisles for off-street parking areas.

- A. Such loading and unloading space, unless adequately provided for within a building, shall be an area ten feet by 40 feet, with 15-foot height clearance, and shall be provided according to the following schedule:

| Gross Floor Area in Square Feet | Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area       |
|---------------------------------|---|
| 0—1,999                         | None  |
| 2,000—19,999                    | One space   |
| 20,000—99,999                   | One space plus one space for each 20,000 square feet in excess of 20,000 square feet    |
| 100,000—500,000                 | Five spaces plus one space for each 40,000 square feet in excess of 100,000 square feet |

- B. The location and design of loading and unloading areas shall be reviewed at the time of site plan submission to insure adequate protection is afforded adjacent districts, especially residential districts, from noise and other disruptive elements normally associated with such facilities.

#### Sec. 18.01. - Purpose.

The intent of this ordinance is to regulate the signage in all zoning districts in Bath Township. This includes the establishment of standards for the time and placement of all signs, markings, and advertising tools within the township. These standards are set up to promote health, safety, public welfare, and protection of free speech in the township through the following objectives, as supported by the Bath Township Master Plan:

*Health:* Ensure that signs are located, designed, and constructed in a way that protects the health of local residents and does not pose a risk for people walking or driving in the Township.

*Safety:* Protect public safety by prohibiting certain signs or construction methods that are unsafe or difficult to maintain, signs that cause unsafe traffic conditions through distractions or confusion of traffic signs, or that impede the safe movement for pedestrians and motorists.

*Public Welfare:* Protect public welfare on various fronts by helping to improve the aesthetic quality of neighborhoods in the Township, reduce conflict among signs and public-private properties, help increase economic activity by allowing businesses adequate advertising and identification, and create neighborhood character for each zoning district.

*Aesthetic Qualities:* Ensure the proper maintenance of signs and prevent potential blight through the inclusion of maintenance and construction objectives. Prevent visual clutter, protect views, ensure a clean and appealing look in each zoning district.

*Free Speech:* Protect that each property owner is subject to fair and uniform standards that provide adequate exposure while also ensuring that the Constitutional right of free speech is protected and that signs are allowed as a means of communications to the public.

Through the implementation of these objectives the Sign Ordinance will be able to promote the use of appropriate signage, which in turn will enhance the economic viability of the Township, ensure the health and welfare of all residents, and increase the aesthetic appearance of the streetscapes.

(Ord. No. 31.55, 4-17-2017)

#### Sec. 18.02. - Severability.

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this article. The township hereby declares that it would have adopted the article in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(Ord. No. 31.49, § 2, 6-1-2015; Ord. No. 31.55, 4-17-2017)

#### Sec. 18.03. - Substitution.

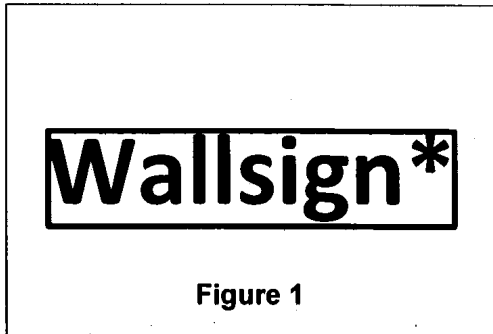
Noncommercial copy may be substituted for commercial copy on any lawful sign structure.

(Ord. No. 31.55, 4-17-2017)

#### Sec. 18.04. - Definitions.

In addition to the definitions set forth in article III, the following words shall have the meanings hereinafter set forth.

**Area.** The entire area within a single continuous perimeter that encloses the extreme limits of any writing, picture, logo, representation, emblem, or figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. Structural members bearing no sign copy shall not be included.



**Figure 1**

Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

**Billboards (outdoor advertising structure).** A sign that is affixed to or erected upon a free-standing framework designed or intended to be used for posting information not pertaining directly to the use of the premises on which it is located.

**Digital sign.** A sign that has or appears to contain movement or that appears to change, caused by a method other than physical removing and replacing the sign or its components, whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign includes any display that incorporates rotating panels, LED lights manipulated through digital input, electronic message centers, or other similar methods or technologies that permit a sign face to present difference images or displays.

**Free-standing signs.** A sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building. Such sign may also be commonly known as a ground sign, or pole sign.

**Identification signs.** A sign that identifies the activity, business, owner or resident and/or the street address and which sets forth no other advertisement.

**Illuminated signs.** A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.

**Institutional bulletin board.** A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its institution services or activities.

**Marquee sign.** An identification sign attached to a marquee, canopy or awning projecting from and supported by the building, above sidewalk level.

**Monument sign.** A free-standing sign that does not have an exposed pole or pylon and is attached to a common or pedestal base.

*On-premises advertising sign.* A sign which directs attention to and whose message relates to a business, service, commodity, or profession lawfully being conducted, sold, or offered on the same premises.

*Pole signs.* A free-standing sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building.

*Portable signs.* A free-standing sign not permanently anchored or secured to either a building or the ground, but usually anchored or secured to a trailer or frame capable of being moved from place to place.

*Projecting signs.* A sign which projects from and is supported by a wall of a building and does not extend beyond the minimum required setback line or into and over a street right-of-way, and is not less than nine feet, at its lowest point, above sidewalk or ground level.

*Sign.* Any words, numerals, figures, devices, designs, pictures or trademarks, visible from any right-of-way, erected on or otherwise affixed to a building, wall board, plate or any other structure, or on a vehicle or trailer, for the purpose of advertising or identifying an establishment, product, service, or activity.

*Temporary sign.* A display or informational sign with or without a structural frame and intended for a period not to exceed 90 days of display, including seasonal produce sales, decorative displays for holiday or public demonstrations.

*Wall sign (fascia sign).* A sign which is attached directly to or painted upon a building wall and which does not extend more than 18 inches therefrom nor above the eave line on roof, with the exposed face of the sign in a plane parallel to the building wall.

*Window sign.* Signs affixed to, in contact with, or within 12 inches of a window; installed for purposes of viewing from outside the premises. This does not include merchandise located in a window.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.05. - Signs permitted in all districts.

The following signs shall be permitted in all districts subject to the requirements stated herein:

- A. House numbers legible from the street, and nameplates (fraternal, social, apartment, and professional) identifying the occupant or address of a parcel of land, and not exceeding two square feet in display surface area.
- B. Memorial signs or tablets, especially those containing the names of buildings and dates of construction.
- C. Reserved.
- D. Flags.
- E. Traffic, or other municipal signs, also private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
- F. Institutional bulletin board located on the premises to which the sign pertains and not exceeding 100 square feet in surface display area.
- G. Park and playground signs.
- H. Temporary signs.
  - I. Temporary signs shall be subject to the following:
    - (1) One non-illuminated temporary sign not exceeding 12 square feet may be placed by right on any property.
    - (2) One additional non-illuminated temporary sign not exceeding 12 square feet may be placed for each

additional condition:

- a. One additional sign for additional road frontages
  - b. One additional sign per registered political candidate and/or any ballot question within a time period between 60 days prior and 10 days after any election in which Bath Charter Township residents are eligible to vote.
  - c. One additional sign while the property is for sale.
- (3) Temporary signs for office or commercial uses in all districts shall have the following additional regulations:
- a. Temporary signs for office or commercial uses in all districts shall not exceed 32 square feet, except that temporary signs as allowed by paragraph 18.05.H(2) are limited to 12 square feet.
  - b. A building permit is required to erect temporary signs attached to or suspended from a building, or placed in the sidewalk area. Said permit shall specify the size and length of duration of said sign.
  - c. Cloth or canvas signs, pennants or banners are permitted and shall also require a building permit.
  - d. Awnings are permitted and may contain the name of the store, logo and the street address.
  - e. Temporary seasonal produce signs shall be allowed in all zoning districts; they shall not exceed nine square feet in surface display area; they shall be placed ten feet off and/or from the street right-of-way; and they shall be removed by November 15 of each calendar year.
- (4) Trespassing, safety or caution signs, not exceeding two square feet in area, shall be permitted.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.06. - Signs for residential uses in all districts.

Any sign not expressly permitted is prohibited.

- A. *Home occupation.* One non-illuminated sign announcing a home occupation or professional service not to exceed two square feet in surface display area, and attached flat against principal building wall or free-standing, but not closer than ten feet to street right-of-way; see section 3.02(49)(e).
- B. *Subdivision or development entry.* A permanent sign, which may be illuminated, may be permitted by planning commission approval provided that the sign copy may include only the name of the development and the developer and provided that the sign and structure shall be harmonious and appropriate in appearance with the existing and intended character of the general vicinity, and shall not exceed 100 square feet in surface display area.
- C. *Identification sign.* One sign placed flat against the main building announcing the identification of the apartment development that shall not exceed 12 square feet in surface display area. Such a sign may be illuminated provided that the source of the light is not visible beyond the property lines of the parcel upon which it is located.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.07. - Signs for office or commercial uses in all districts.

Any sign not expressly permitted is prohibited. Permitted surface display area shall not exceed 100 square feet for any office or commercial use outside of shopping centers, including surface display area of outdoor advertising structures of section 18.12 for off-premise signs.

- A. *Free-standing signs:*

- (1) One on-premises advertising sign per building not exceeding 100 square feet in surface display area.
- (2) The sign shall convey only the identification of the permitted use.
- (3) A free-standing sign, the leading edge of which is set back at least ten feet from the right-of-way line, may be located in the front yard, and shall be no higher than five feet from ground level, or, in the alternative, the top of the sign may be as high as 20 feet, with the bottom of the surface display area no lower than ten feet above ground level.
- (4) Monument signs require the following:
  - (a) The minimum front yard setback shall be five feet;
  - (b) The minimum side yard setback shall not be less than the height of the sign;
  - (c) The total surface display area (both sides of the sign) shall be no greater than 65 feet at the five foot front yard setback;
  - (d) The maximum surface display area may be increased by seven square feet for each one square foot of additional setback beyond five feet, but may not exceed 100 square feet;
  - (e) The maximum sign height shall be five feet, which includes the columnar or pedestal base;
  - (f) The placement of the monument sign shall provide for a clear vision area for pedestrians and vehicles;
  - (g) The planning commission may approve alternative sign locations if the monument sign is approved as part of final site plan review (article XX).

B. *Wall signs:*

- (1) One per building, not exceeding ten percent of the building face to which it is attached.
- (2) Wall signs shall be placed flat against the main building or parallel to the building on a facade and may only face public streets or parking areas which are part of the development.
- (3) Wall signs shall not project above the eave or lower roof line.

C. *Marquee signs:*

- (1) Marquee signs shall not exceed the surface display area permitted for wall signs.
- (2) No portion of a marquee sign shall be higher than the eave or lower roof line.

D. *Projecting signs:*

- (1) One per building, with a surface display area not exceeding 1½ square feet in area for each lineal foot of building frontage up to a maximum of 50 square feet.
- (2) Projecting signs shall be attached directly to a building by means of building mounts or hung from a mast arm. These support members may also include decorative appurtenances, but external bracing such as guy wires and metal framework shall be prohibited.
- (3) Signs must project at a 90-degree angle to the building surface to which attached.
- (4) Projecting signs shall not extend beyond the minimum required setback line or into and over street right-of-way.
- (5) The minimum clearance of a projecting sign over a sidewalk shall be nine feet.

E. *Window signs:*

- (1) Permanent window copy, painted or otherwise attached to the window surface shall be limited in area to ten percent of the total window surface of the window involved.
- (2) Window signs are permitted on first floor windows only.
- (3) Temporary window signs shall not exceed 20 percent of the surface of the window to which attached.

- (4) The provisions stated above shall not restrict the reasonable application upon a window surface of lettering or decals giving the address, hours of business, entrance or exit information, professional or security information, credit cards which are accepted or other similar information, nor shall the surface area of such lettering or decals be included in the overall computation of allowable signage.

F. *Illuminated signs:*

- (1) Signs may be illuminated but no flashing or moving illumination shall be permitted.
- (2) The source of illumination shall not be visible beyond the property line of the parcel on which the sign is located.
- (3) Neon signs shall be permitted.
- (4) Signs shall not revolve or move in any manner.

G. *Service station signs:*

- (1) In the case of gasoline service stations on a two-sided sign indicating only price and grade of gasoline as shown on the pumps, either side not to exceed 12 square feet in surface display area, may be permanently attached to the support pole of the free-standing sign. If the support pole is poorly located, said price sign may be attached to a light standard or support. Price signs shall be attached with the bottom of sign no lower than six feet from ground level.
- (2) There shall be no signs located in fuel pump islands or on canopies except those constituting an integral part of the fuel pump itself or those required by state law or regulation.

H. *Parking lot signs:*

- (1) One directional sign at each point of ingress or egress shall be permitted, which may bear the sponsor's ad, name or trademark, the enterprise it is intended to serve and directions of movement.
- (2) Surface display area per sign shall not exceed six square feet.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.08. - Signs for industrial uses in all districts.

Any sign not expressly permitted is prohibited.

- A. All limitations governing office or commercial use shall apply, except the maximum permitted surface display area shall be 200 square feet.
- B. Development entry. One free-standing sign identifying the development near the entrance to an industrial complex, not exceeding 100 square feet in surface display area and no higher than five feet above the ground shall be permitted. Such signs shall be at least 25 feet from any street line and may be illuminated provided the source of illumination is not visible beyond the property line of the parcel.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.09. - Sign requirements for planned shopping centers.

- A. Free-standing signs shall conform to the requirements of section 18.05A, signs for office or commercial uses in all districts.
- B. Each business within the shopping center may provide one wall sign conforming to the requirements of section 18.05B.

- C. Where the roof structure of a building containing more than one business is extended over a walkway along the outer edge of the building, one marquee sign or one underhanging sign may be permitted for each business in the building provided:
- (1) All signs shall be identical size and shape, and have a minimum clearance of nine feet.
  - (2) Underhanging signs shall contain the name of the business only.
  - (3) All marquee and underhanging signs shall utilize identical lettering style and color scheme.
- D. An additional free-standing sign may be permitted for planned shopping centers upon application for and granting of a special use permit by the planning commission.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.10. - Illuminated signs.

Signs may be illuminated by a direct or indirect source of light provided the light source is shielded in a manner so that no direct rays or glare emanating from the light source are visible from any public right-of-way or from the abutting property. Illuminated signs shall be installed in such a manner as to allow the reduction of the amount of illumination after normal business hours each day.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.11. - Moving or revolving signs.

Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement achieved by electrical, electronic or mechanical means, shall be prohibited.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.12. - Signs not to constitute a traffic hazard.

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.

(Ord. No. 31.49, § 3, 6-1-2015; Ord. No. 31.55, 4-17-2017)

Sec. 18.13. - Portable or moveable signs.

Any portable sign not permanently anchored or secured to either a building or the ground, including but not limited to "A" frame, "T" frame, or inverted "T" shaped structures, including those signs mounted on wheeled trailers, shall be permitted in only the development or high-density districts and only in accordance with the following provisions:

- A. Portable signs are permitted for grand openings, advertising charitable or community-related events and the like. Being temporary in nature, such portable signs may be permitted for a period not to exceed 90 days.
- B. All illuminated portable signs shall comply with the requirements of section 18.08.
- C. All portable signs shall be located no closer than one-half the setback distance for a permanent structure, to the street right-of-way line.
- D. Any portable signs shall not exceed 50 square feet in surface display area.
- E. Any portable signage exceeding the above requirements shall necessitate issuance of a special use permit by the



planning commission.

(Ord. No. 31.49, § 4, 6-1-2015; Ord. No. 31.55, 4-17-2017)

Sec. 18.14. - Digital signs.

- A. *Definitions.* For purposes of this section, a "free-standing sign," "marquee sign," "on-premise advertising sign," "projecting sign," "wall sign," "window sign," "illuminated sign," "service station signs," "parking lot sign" or "temporary sign" shall meet the provisions of this section if it also meets the definition of a "digital sign".
- B. *Display.*
- (1) A digital sign may not allow the display or message to change more frequently than once every twelve seconds, with a transition period of one second or less. Digital signs may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. Under no circumstances may any type of digital sign contain a video, or a message or display that appears to flash, undulate, pulse, move, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or make other comparable movements.
  - (2) A digital sign must have installed a monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on conditions consistent with the terms of this section.
  - (3) The maximum brightness levels for digital signs shall conform to the following requirements:
    - a. Brightness shall be no greater than 2,000 nits from dawn until dusk.
    - b. Brightness shall be no greater than 125 nits from dusk until dawn.
  - (4) Certification must be provided to the Township demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Township in its reasonable discretion, at the expense of the applicant, his or her assignees or successors, or the individual who exercises control over the sign, to ensure that the specified brightness levels are maintained at all times.
  - (5) Brightness of digital signs shall be measured from the sign's face using a standard nit-meter when the digital sign is turned on to full white copy.
- C. *Operation.*
- (1) Digital signs may only be operated during a business's normal hours of operation and one-half hour before or after the open or close of the business, in accordance with brightness levels set forth in subsections 18.14(B)(3)(a) and (b).
  - (2) Digital signs may only be operated in the following Township zoning districts: Development (D) and High Density Development (HDD).
- D. *Other Requirements.* The use, size and location of digital signs must comply with all other relevant regulations and ordinances of the Township.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.15. - Outdoor advertising structures.

Billboards (outdoor advertising structures) may be permitted by special use permit in the development district in accordance with the following limitations:

- A. *General requirements.*

- (1) For purposes of this section, "Digital billboard" shall mean a "billboard" which incorporates, in whole or in part,
- (2) Any double-faced billboard having back to back surface display areas, no part of which is more than two feet apart, is considered to be a single billboard.
- (3) Billboards having more than one surface display area which are tandem (side-by-side) or stacked (one above the other) are considered two billboards and are prohibited.
- (4) The installation or use of a billboard is permitted only to the extent authorized by, and subject to, the provisions of the Zoning Ordinance.
- (5) No billboard may be installed or erected at any time when there are 5 or more existing billboards located in the Township.

B. *Spacing.*

- (1) No more than three billboards may be located within any linear mile along a street, notwithstanding the fact that such billboards may be located on different sides of the street. This distance requirement shall include in its calculation any billboards located outside of the boundaries of the Township.
- (2) No billboard may be located within a radius of 500 feet of another billboard regardless of geographic jurisdiction or within 300 feet of existing or future residential uses.
- (3) Billboards shall be located at least 100 feet from the right-of-way line of the street on which they front.
- (4) All distances as provided for in this section shall be measured radially from where the surface display area is visible.
- (5) No billboard may be located on top of, cantilevered over or otherwise suspended above any building or structure.

C. *Billboard Size.*

- (1) No billboard shall exceed 100 square feet in surface display area.
- (2) The height of a billboard may not exceed 35 feet above the natural grade of the ground on which the billboard is located.

D. *Illumination.* A billboard may be illuminated, provided such illumination is consistent with the requirements of this ordinance, is concentrated on the surface of the billboard and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.

E. *Appearance; Movement.* All billboards must be stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages.

F. *Display.* A billboard may not, in whole or in part, incorporate any aspect of a Digital Sign. Digital billboards are expressly prohibited and shall not be constructed, displayed, placed, installed, substituted, operated, or maintained in the Township.

G. *Construction.* A billboard shall be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity and in compliance with all applicable codes.

H. *Maintenance.* Billboards shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of structure and preservation of the structure with paint or other surface finishing material. If a billboard is not maintained, written notice of any disrepair shall be issued by the building inspector to the owner of said structure. If the disrepair is not corrected within 30 days, said structure shall be removed at the owner's expense.

I. *Other Applicable Laws.* A billboard must comply with all applicable provisions of federal and state law.

J. *Permitting.* Every billboard requires a Township sign permit before installation or modification. Permits shall be

reviewed and issued consistent with the terms of this section as well as all other applicable sections of the Township Zoning Ordinance. Every applicant for a billboard permit shall file with the application a policy of insurance, certifying that the applicant is insured against bodily injury and for property damage arising out of the erection, maintenance, repair, and replacement of the billboard in an amount satisfactory to the Township. Each applicant, if the permit is granted, shall be required to maintain said insurance and keep a policy of insurance currently effective on file with the Township so long as the billboard or billboards are in existence. The policy shall provide that the Township shall receive ten-days written notice in case of cancellation of the policy. Any billboard in violation of the insurance requirements of this section shall be removed immediately and the cost of such removal shall be charged against the owner of the billboard.

- K. *Other Requirements.* Billboards must otherwise comply with all other relevant regulations and ordinances of the Township.

(Ord. No. 31.55, 4-17-2017)

Sec. 18.16. - Existing nonconforming signs.

It is the intent of this section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of adoption of this section, although such sign or outdoor advertising structure may not conform with the provisions of this section. It is the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs and outdoor advertising structures within Bath Charter Township shall be subject to the conditions and requirements set forth herein.

- A. *Structural changes.* The faces, supports, or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign or outdoor advertising structure conforms to the provision of this article for the use it is intended, except as otherwise provided for.
- B. *Repairs, alterations and improvements.* Nothing shall prohibit the repair, reinforcement, alteration, improvement, or modernizing of a lawful nonconforming sign or outdoor advertising structure, provided such repair does not exceed an aggregate cost of 30 percent of the appraised replacement cost as determined by the building inspector, unless the subject sign or outdoor advertising structure is changed by such repair, reinforcement, alteration, improvement, or modernizing to a conforming structure. Nothing in this section shall prohibit the periodic change of message on any outdoor advertising structure.
- C. *Restoration of damage.* Any lawful nonconforming sign or outdoor advertising structure damaged by fire, explosion, or an act of God, or by other accidental causes, may be restored, rebuilt or repaired, provided that the estimated expense of reconstruction does not exceed 50 percent of the appraised replacement cost as determined by the building inspector.
- D. *Discontinuance or abandonment.* Whenever the activity, business or usage of a premises to which a sign is attached or related has been discontinued for a period of 90 days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconforming sign shall either be removed or altered to conform with the provisions of this section.
- E. *Elimination of nonconforming signs.* The township board may acquire any nonconforming sign or outdoor advertising structure, with or without acquiring the property on which such sign or structure is located, by

condemnation or other means, and may remove such sign or structure.

(Ord. No. 31.55, 4-17-2017)

## ARTICLE XIX. - SPECIAL USE PERMITS

### Sec. 19.01. - Purpose.

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with conclusive experience regarding some of the older, more familiar kinds of uses call for a more flexible and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

In order to accomplish this dual objective, provision is made in this ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as special uses and may be authorized by the issuance of special use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections, together with previous references in other articles, designate what uses require a special use permit. With any exception noted, the procedures for obtaining such a permit apply to all special uses indicated.

### Sec. 19.02. - Application procedures.

- A. *Applicant.* Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this ordinance in the zoning district in which the land is situated.
- B. *Application.* Applications shall be submitted through the township clerk to the planning commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- C. *Data required in application.* Every application shall be accompanied by sufficient copies of the following information and data:
  - (1) Special form supplied by the township clerk filled out in full by the applicant.
  - (2) Sketch plan as specified in section 20.03.
  - (3) Site plan, containing information specified in section 20.03.
  - (4) Preliminary plans and outline specifications of the proposed development, if applicable.
  - (5) A statement with supporting evidence regarding the required findings specified in section 19.04.
- D. *[Copies.]* Upon receipt of such materials by the clerk, the township shall transmit one copy to each of the following

agencies considered to be impacted or affected by the land use request for their review and comment, e.g., county drains — Clinton County Drain Commissioner; curb cut access — Clinton County Road Commission, etc.:

- (1) Clinton County Road Commission.
- (2) Mid-Michigan District Health Department.
- (3) Clinton County Drain Commissioner.
- (4) Clinton County Department of Planning and Zoning.
- (5) School district—Superintendent of schools, (Bath, Laingsburg or Haslett).
- (6) Fire chief.
- (7) Police chief.

The clerk shall transmit the remaining copies of the preliminary site plan to the planning commission for their review. The planning commission, upon receiving the comments of the above affected agencies, shall proceed with a public hearing on the request.

Sec. 19.03. - Review and findings.

- A. *Planning commission public hearing.* The planning commission shall review the application at its next regular meeting following filing and shall set a date for public hearing within 45 days thereafter. The township clerk shall cause to be published one notice of public hearing, not less than five nor more than 15 days in advance of such hearing and shall notify by regular mail or personal delivery the parties of interest and all property owners within 300 feet of the subject property. Such notice shall describe the nature of the request; indicate the property involved; state the time and place of the hearing; and indicate when and where written comments will be received concerning the request.
- B. *Planning commission recommendations.* Upon conclusion of such hearing procedures, the planning commission shall transmit a written recommendation within 60 days to the township board setting forth the reasons for the acceptance, denial or modification of the special use permit application. Such recommendation shall be forwarded to the township clerk.
- C. *Township board action.* Upon receipt of the planning commission recommendation, the township board shall consider the special use permit application at its next regular meeting. The township board shall accept or reject the application based upon materials received and testimony recorded at the public hearing. Following favorable action by the township board, the clerk shall issue a special use permit, subject to site plan review and/or other conditions as have been placed on such permit by the planning commission and township board. All conditions shall be clearly specified in writing.

(Ord. No. 31.37, § 15, 4-19-2010; Ord. No. 31.51, § 1, 8-3-2015)

Sec. 19.04. - General standards for making determinations.

The planning commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- A. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the comprehensive development plan of current adoption;
- B. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;

- C. Will not be hazardous or disturbing to existing or future neighboring uses;
- D. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
- E. Will be served adequately by essential public facilities and services; such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such service;
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- G. Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- H. Will be consistent with the intent and purposes of this ordinance.

Sec. 19.05. - Conditions and safeguards.

- A. Prior to granting any special use permit, the township board may impose any additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the special use permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole; and be consistent with the general standards as established in this ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- B. Conditions and requirements stated as part of special use permit authorization shall be a continuing obligation of special use permit holders. The zoning administrator shall make periodic investigations of developments authorized by special use permit to determine compliance with all requirements.
- C. Special use permits may be issued for time periods as determined by the township board. Special use permits may be renewed in the same manner as originally applied for.
- D. In authorizing a special use permit, the township board may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the township clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the township board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements; see article XX.
- E. A special use permit shall terminate when:
  - (1) A condition of the issuance of the special use permit included an expiration date, and that date is reached; or
  - (2) Violation of conditions imposed by the special use permit continue to exist more than 30 days after an order to correct has been issued; or
  - (3) A site plan application meeting the requirements of sections 20.03 (procedures for site plan review) and 20.04 (standards for site plan review) of this chapter has not been submitted within one year of the date of issuance of the special use permit; or
  - 4) Implementation of a final site plan has not occurred within one year of the date of final site plan approval.

With regard to subsections E(2), E(3) and E(4) of this section, the township board of trustees may grant an extension upon receipt of a written request, for good cause for such extension being shown.

- F. All plans, specifications and statements submitted with the application for a special use permit shall become, along with any changes ordered by the township board, a part of the conditions of any special use permit issued thereto.
- G. No application for a special use permit which had been denied wholly or in part of the township board shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the township board.
- H. The foregoing general standards are basic to all special uses; and the specific requirements accompanying the following sections relating to particular uses are in addition to and shall be required in all applicable situations.

(Ord. No. 31.32, § 8, 10-20-2003)

#### Sec. 19.06. - Appeals.

Recourse for a person considering himself aggrieved by a decision of the township board in the granting or denial of a special use permit shall be to the Circuit Court of Clinton County as provided by law.

#### Sec. 19.07. - Non-residential structures and uses in the low-density residential districts.

- A. *General standards.* Inasmuch as the non-residential uses permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following general standards must be met prior to development of such uses:
  - (1) Hazardous areas must be adequately fenced to avoid accidents, such areas include public utility substations.
  - (2) Any permitted non-residential structure should preferably be located at the edge of a rural or low-density residential district, abutting a D, H or M district, or a public open space.
  - (3) If possible, all permitted non-residential uses should front on a major street (minor arterial or collector).
  - (4) Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the non-residential use upon the residential area.
  - (5) Site locations should be chosen which offer natural or man-made barriers that would lessen the effect of the intrusion of a non-residential use into a residential area.
  - (6) Non-residential uses should not be located so as to cause costly public improvements.
  - (7) Non-residential structures shall be located no closer than 100 feet to adjacent property lines.

#### Sec. 19.08. - Planned unit developments (PUD).

- A. *Intent.* It is the intent of this section to provide for an added degree of flexibility in the placement and interrelationship of buildings incorporating a variety of residential dwellings, and encouraging a more creative approach to development. Such criteria are further intended to:
  - (1) Result in a more efficient development pattern with shorter streets and utility networks.
  - (2) Preserve existing natural assets, such as stands of trees, floodplain, open fields and the like.
  - (3) Accomplish a more desirable residential environment than would be possible through the strict application of minimum requirements of the zoning ordinance.
  - (4) Encourage the utilization of open space and the development of recreational facilities generally located within a

reasonable distance of all living units.

- (5) Such development may consist of individual lots or common building sites. Common land and open space are essential elements of the plan related to affecting the long-term aesthetic and economic values of the entire development.

B. *General requirements, restrictions and standards.*

(1) *Minimum project area.* Minimum project area allowable for a PUD shall be 15 acres.

(2) *Location.* PUDs may be located in those districts as designated and upon approval of the township board.

(3) *Uses permitted.* Only the following land and/or building uses may be permitted under the provisions of this section:

(a) All uses permitted in the district for which the PUD is approved.

(b) Any additional uses which can be shown to be compatible with the general objectives of the township's comprehensive development plan as well as integral to the specific PUD scheme in which they are contained. For the purpose of this section, an integral use shall be defined as a use which has a specific functional relationship with other uses contained in the development, as for example, a day care center which serves primarily the needs of residents of the development.

(4) *Performance objectives:*

(a) Yard, setback, lot size, type of dwelling unit, height, and frontage requirements restrictions are waived for the PUD; provided, however, that the spirit and intent of this section, as defined in the purpose clause, are incorporated within the total development plan. The planning commission may determine that certain setbacks be established within all or a portion of the perimeter of the site, and shall determine the suitability of the total development plan in accordance with the purpose clause of this section.

(b) *Access.* Every structure or dwelling unit shall have access to a public street, walkway or other areas dedicated to common use.

(c) *Land usage.* The approximate location of structures, shown on the conceptual development plan, shall be so arranged as not to be detrimental to existing or proposed structures within the development or surrounding neighborhood.

(d) *Privacy.* Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.

(e) *Off-street parking.* Parking convenient to all dwelling units and other uses, shall be provided pursuant to the minimum requirement of article XVII of this ordinance. Common driveways, parking areas, walks and steps may be required together with appropriate lighting, in order to insure the safety of the occupants and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges or screening walls.

(f) *Development concept.* All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond site.

(g) *Utilities.* PUDs shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. Provisions shall be made for construction of storm sewer facilities including grading, gutters, piping, and treatment of turf to handle storm waters, and to



- prevent erosion and the formation of dust. This could include the establishment of retention basins in order to minimize stormwater runoff.
- (h) *Pedestrian circulation.* The pedestrian circulation system and its related walkways shall be insulated as completely and as reasonably as possible from vehicular movement.
  - (i) *Recreation areas.* Recreation facilities for the resident of the project, not impairing the view and privacy of the living units, shall be provided in easily accessible locations.
  - (j) *Planting.* The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new landscaping shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features.
- (5) *Density.* The density (dwelling units per acre) in a PUD shall not exceed the density of the zone in which it is located. When more than one zone is involved, the density of the project will be the average of the zones, weighted in direct proportion to the size of the property within the project in each zone. Only one-half of the total portion of the site comprised of floodplain, swamps, (wetland) or a water body, may be used in the calculation of densities of a project.
- (6) *Bonus densities.* The township board may approve PUDs developed at densities in excess of the allowed maximum, when the developer can compensate for the increased densities by providing unique and extraordinary amenities, incorporating special site planning and landscape design techniques or preserving substantial areas of natural assets. Increased densities permitted through various bonus density provisions shall be cumulative, but not exceed 50 percent. Criteria for reviewing bonus density requests shall include:
- (a) *Design.* Fifteen percent for distinctiveness and desirable variations in design, including landscaping, siting and design features.
  - (b) *Open space.* Common open space amenities, including 15 percent for dedicated public open space, ten percent for commercial recreation (golf course, etc.), or open space in excess of the stated requirements.
  - (c) *Natural assets.* Preservation or provision of unique amenities, including five percent for woodlot preservation or provision of a permanent pond, both of which must be 20,000 square feet or larger in size.
- (7) *Open spaces.* "Common open space" is defined as a parcel or parcels of land or an area of water or a combination of land and water designed and intended for the use or enjoyment of the residents of the PUD or of the general public. "Common open space" does not include proposed street rights-of-way, open parking area, or commercial areas. Common open space may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial, recreational or cultural uses. A variety of open space and recreational areas is encouraged such as children's informal play areas in close proximity to individual dwelling units, according to the concentration of dwellings; formal parks, picnic areas; playgrounds; and scenic open areas and communal, non-commercial, recreational facilities.
- (a) The area of common open space within a PUD project may not be less than 25 percent of the total land area of the project.
  - (b) All common open space shown on the final site plan must be reserved or dedicated by lease or conveyance of title to a corporation, association or other legal entity, or by reservation by means of a restrictive covenant. The terms of such lease or other instrument must include provisions guaranteeing the continued use of such land for the purposes intended and for continuity of proper maintenance of those portions of the open space land requiring maintenance.
- (8) *Circulation facilities.* The arrangements of public and common ways for pedestrian and vehicular circulations shall be coordinated with other existing or planned streets in the area.

C. *Procedures:*

- (1) *Applications.* Applications shall be submitted through the township clerk to the planning commission; see section 19.02.
- (2) *Preliminary review.* Preliminary review for special use permit:
  - (a) In addition to those requirements set forth in section 19.02, the developer must submit the following for the initial phase of project review:
    - 1) A development plan, drawn to a readable scale, of the total property involved showing its location in the township and its relationship to adjacent property.
    - 2) A site plan indicating the proposed types and location of dwelling units and the anticipated population density associated with each type as well as the entire project.
    - 3) A site plan indicating the location and purpose of all non-residential structures, traffic circulation, parking layout and pedestrian pathways.
    - 4) A site plan showing the acreage, nature and location of common open space, and a general statement as to the means by which the development will guarantee its continuity and maintenance.
- (3) *Final review.* Final review for special use permit:
  - (a) Prior to receiving final approval, the developer must submit the following to the planning commission for their review:
    - 1) A site plan indicating engineering recommendations for water, sanitary sewer, storm drainage, natural gas, electric and telephone systems.
    - 2) A site plan indicating recommendations for road alignments, with provisions for dealing with topography and soil conditions.
    - 3) A site plan indicating existing contours and the final topographic conditions proposed for the site after grading.
    - 4) A detailed landscaping plan.
    - 5) A specific schedule of the intended development and construction details, including phasing or timing as they relate to open space, recreational features, common use areas, utilities and screening requirements.
  - (b) Following receipt and review of the application, the planning commission shall make and transmit a recommendation to the township board. Before approval or denial of the application the township board shall hold at least one public hearing regarding said application. Notice of the public hearing shall be given as provided in section 19.03 as to public hearings before the planning commission.
  - (c) Within a reasonable time following the public hearing, the township board shall deny, approve or approve said application with conditions. The township board shall state its conclusions, decision and basis for that decision and the basis for conditions imposed, if any, pursuant to section 503(7) of the Zoning Enabling Act (MCL 125.3503).
- (4) *Commencement and construction.* The applicant shall commence construction for an approved PUD within one year following recording of approved final plat or special use permit if no plat is necessary. Failure to do so will invalidate the permit. The applicant may request one extension for not more than one year from the township board, providing such request is received prior to the expiration of the original permit.

(Ord. No. 31.37, § 16, 4-19-2010)

**State Law reference—** PUDs, MCL 125.286c, 125.286d.

## Sec. 19.09. - Planned shopping centers.

- A. *Intent.* It is the intent of this section to provide for the establishment of planned shopping centers which can efficiently serve day-to-day shopping needs. Consolidation of convenience shopping facilities into planned shopping centers is encouraged in order to avoid strip commercial development, lessen traffic conflicts and improve the safety convenience of customers. Consolidation is also encouraged in order to economically provide for the appropriate landscape buffers needed to protect property values in adjacent areas. The regulations and conditions contained in this section are designed to insure that planned shopping centers will be developed at locations which will most efficiently serve the shopping needs of the community.
- B. *Retail and office uses.* Retail and office uses permitted in H district would be permitted in planned shopping centers.
- C. *Site development standards.*
  - (1) Located in accordance with Bath Township's Comprehensive Development Plan.
  - (2) Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector).
  - (3) Where possible, existing trees on the site shall be preserved. In addition, new landscaping shall be added to enhance the beauty of the development. A landscaping plan shall be included with the site plan.

## Sec. 19.10. - Automobile service stations and commercial garages.

- A. *Intent.* It is the intent of this section to provide standards for automobile service stations and commercial garages. Generally, automobile service stations will be located adjacent to arterial or collector streets and intended to serve residential neighborhoods. Commercial garages shall be located near high volume arterial highways.
- B. *Permitted uses:*
  - (1) The following uses may be permitted in conjunction with automobile service stations:
    - (a) Retail sales of gasoline, oil and similar products.
    - (b) Automobile washing.
    - (c) Automobile maintenance.
  - (2) The following uses may be permitted in conjunction with commercial garages:
    - (a) Automobile towing, including parking of a wrecker and operative vehicles waiting for immediate repair.
    - (b) Parking and storage of inoperative vehicles, provided that such parking or storage area shall be within an enclosed building or shall be screened by an opaque fence not less than six feet in height.
    - (c) Automobile body repairs.
- C. *Site development standards:*
  - (1) The township board shall only issue special use permits for automobile service stations and commercial garages which comply with the following site development standards:
    - (a) The minimum site size shall be 15,000 square feet and, in addition, the following:
      - 1) Gasoline service stations shall have 500 square feet of site area for each additional pump over four, and 1,000 square feet of site area for each additional vehicle storage space.
      - 2) Commercial garages shall have 1,000 square feet of site area for each additional service bay over two. There shall also be 300 square feet of additional site area for each space intended for storage of inoperable vehicles.
    - (b) The minimum site width shall be 150 feet.
    - (c) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the

right-of-way lines for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than 20 feet from any adjacent property line. The minimum driveway width at the curb line shall be 22 feet and the maximum driveway width at the curb line shall be 30 feet. The minimum width of access drive shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees unless separate acceleration and deceleration lanes are provided.

- (d) A buffer strip not less than 20 feet wide shall be developed adjacent to all automobile service station and commercial garage site property lines. This buffer strip shall be graded with a berm at least three feet above the highest ground elevation within 25 feet of the buffer strip. Berm slopes shall be sufficiently gradual to prevent erosion. The berm shall be continuous along that portion of the buffer strip which abuts adjacent property, except that it need be developed only along 30 percent of the buffer strip laying adjacent to thoroughfare right-of-way. The berm shall be designed and located so as not to interfere with the safety of persons or vehicles entering or leaving the area.
- (e) All equipment including hydraulic hoists, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing auto body shop or washing areas shall consist of a solid masonry wall or equivalent, approved by the zoning administrator, with no openings other than those required for access. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container.
- (f) All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- (g) There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.

Sec. 19.11. - Drive-in or fast food restaurants.

- A. *Intent.* It is the intent of this section to provide development regulations for drive-in or fast food restaurants which potentially present special problems in their relationships to adjacent uses and traffic patterns in the districts in which they are permitted.
- B. *Site development standards:*
  - (1) The township board shall only issue special use permits for drive-in restaurants which comply with the following site development standards:
    - (a) The minimum site size shall be 20,000 square feet.
    - (b) The minimum lot width shall be 150 feet.
    - (c) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines of two streets and no closer than 20 feet from an adjacent property line. The minimum driveway width at the curb line shall be 30 feet. No more than two driveway approaches shall be permitted on any street frontage.
    - (d) The outdoor space used for parking and vehicle stacking shall be hard surfaced and adequately drained.
    - (e) All areas used for the storage of trash and rubbish shall be enclosed on at least three sides by a structure, with the fourth side or access point having a view-obstructing door.
    - (f) Drive-in restaurant management shall provide adequate trash and litter containers, and policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.

Sec. 19.12. - Wireless communication towers and antennas; special use permit and exception to special use permit requirements.

- A. *Intent and purpose.* It is the intent and purpose of this section to establish regulations and concepts for placement of wireless communication towers and antennas. In this regard, it is the township's desire to protect residential areas and land uses from potential adverse impacts of such towers and antennas; and encourage the location of towers in non-residential areas, minimize the total number of towers throughout the township, encourage the joint use of new and existing tower sites as a primary option, rather than construction of additional single use towers; encourage owners and users of such facilities to place same to the extent possible in areas where adverse impact on the township is minimized; to encourage owners and users of such facilities to adopt designs and configurations that minimize the adverse visual impact of said facilities, including, but not limited to, siting, landscape, screening, camouflage technique and coloration; to enhance the ability of providers of telecommunication services to provide such services to users within the township; to consider public health and safety; and avoid potential damage to adjacent properties from tower failure through engineering and site selection.
- B. As used in this ordinance, the following terms shall have the meanings as set forth below.
- (1) *Alternative tower structure* means man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
  - (2) *Antenna* means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
  - (3) *Backhaul network* means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching office(s), and/or long distance providers, or the public switched telephone network.
  - (4) *FAA* means the Federal Aviation Administration.
  - (5) *FCC* means the Federal Communications Commission.
  - (6) *Height* when referring to a tower or other structure, means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
  - (7) *Preexisting towers and preexisting antennas* means any legally existing tower or antenna prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
  - (8) *Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
- C. *Applicability.*
- (1) *New towers and antennas.* All new towers and antennas in the township shall be subject to these regulations, except as provided in [sub]sections (2) through (4) of this [sub]section C, inclusive.
  - (2) *Amateur radio station and antennas capable of reception only.* This ordinance shall not be deemed to be applicable to any tower or installation of any antenna that is owned and operated by a federally licensed amateur radio station operator, or is used exclusively for receive-only antennas.
  - (3) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of sections D(6) and (7).
  - (4) *AM array.* For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and

supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

D. *General requirements:*

- (1) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (2) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even through the antennas or towers may be located on leased parcels within such lot.
- (3) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the zoning administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the township or within an adjacent municipality that provides service within Bath Township, including specific information about the location, height and design of each tower. The zoning administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the township; provided, however, that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (4) *Aesthetics.* Towers and antennas shall meet the following requirements:
  - (a) Towers shall be of monopole construction only unless the applicant can demonstrate that a lattice (non-guyed) tower is the only structure feasible based upon engineering criteria. Towers shall maintain a galvanized steel finish or, subject to applicable FAA standards, be painted a neutral color so as to reduce visible obtrusiveness.
  - (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
  - (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (5) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (6) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless, a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (7) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that towers are maintained in compliance with standards contained in applicable state or local building codes and the applicable standards that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - (8) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the township irrespective of municipal and county jurisdictional boundaries.
  - (9) *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.
  - (10) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the township have been obtained and shall file a copy of all required franchises with the zoning administrator.
  - (11) *Public notice.* For purposes of this ordinance, any special use request, variance request or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in section F(2)(g)(i) and (ii), in addition to any notice otherwise required by this ordinance.
  - (12) *Signs.* No signs shall be allowed on an antenna or tower.
  - (13) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of section H.
  - (14) *Multiple antenna/tower plan.* The township encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- E. *Administratively approved uses.*
- (1) *General.* The following provisions shall govern the issuance of administrative approvals for towers and antennas.
    - (a) The zoning administrator may administratively approve the uses listed in this section.
    - (b) Each applicant for administrative approval shall apply to the zoning administrator providing the information set forth in sections F(2)(b) and F(2)(d) of this ordinance [section] and a nonrefundable fee as established by resolution of the township board to reimburse the township for the costs of reviewing the application.
    - (c) The zoning administrator shall review the application for administrative approval and determine if the proposed use complies with sections D and F(2)(d), (e), (f) and (g).
    - (d) The zoning administrator shall respond to each such application within 60 days after receiving it by either approval or denying the application. If the zoning administrator fails to respond to the applicant within said 60 days, applicant may apply to the township board for action within the following 30 days.
    - (e) In connection with any such administrative approval, the zoning administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in section F(2)(f) or separation distances between towers in section F(2)(g) by up to 50 percent.
    - (f) In connection with any such administrative approval, the zoning administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

- (g) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to prior to filing any appeal that may be available under this ordinance.
- (2) *List of administratively approved uses.* The following uses may be approved by the zoning administrator after conducting an administrative review:
- (a) Locating an antenna, including the placement of additional buildings or other supporting equipment used in connection with said antenna, in the R rural, D development, P public lands, and HDD high-density development zoning districts.
- (b) Locating antennas on existing structures or towers consistent with the terms of subsections 1) and 2) below.
- 1) *Antennas on existing structures.* Any antenna which is not attached to a tower may be approved by the zoning administrator as an accessory use to any commercial, industrial, professional, institutional or multifamily structure of eight or more dwelling units, provided:
- (i) The antenna does not extend more than 30 feet above the highest point of the structure;
- (ii) The antenna complies with all applicable FCC and FAA regulations; and
- (iii) The antenna complies with all applicable building codes.
- 2) *Antennas on existing towers.* An antenna which is attached to an existing tower may be approved by the zoning administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
- (i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the zoning administrator allows reconstruction as a monopole;
- (ii) Height:
- (a) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
- (b) The height change referred to in subsection (iii)(a) may only occur one time per communication tower.
- (c) The additional height referred to in subsection (iii)(a) shall not require an additional distance separation as set forth in section 6[B(6)]. The tower's pre-modification height shall be used to calculate such distance separations.
- (iii) Onsite location.
- (a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location.
- (b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
- (c) A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculation separation distances between towers pursuant to section F(2)(g). The relocation of a tower hereunder shall in no way be deemed to cause a violation of section F(2)(g).
- (d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in section F(2)(g) shall only be permitted when approved by the zoning administrator.

F. *Special use permits:*



- (1) *General.* The following provisions shall govern the issuance of special use permits for towers or antennas by the township board:
  - (a) Applications for special use permits under this section shall be subject to the procedures and requirements of article XIX of this ordinance, except as modified in this section.
  - (b) In granting a special use permit, the township board may impose conditions to the extent the board considers such conditions to be necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - (c) Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.
  - (d) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the township board to reimburse the township for the costs of reviewing the application.
- (2) *Towers.*
  - (a) *New towers.* Locating any new tower shall require heights and collocation as follows:
    - (i) For a single user, up to 75 feet in height.
    - (ii) For two users, towers of 75 feet and less than 90 feet in height; and
    - (iii) For three users, towers of 90 feet and not more than 120 feet in height.
  - (b) *Information required.* In addition to any information required for applicants for special use permits pursuant to article XIX of this ordinance, applicants for a special use permit for a tower shall submit the following information:
    - (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including adjacent land users in other municipalities), comprehensive development plan classification and zoning classification of the site and all properties within the applicable separation distances set forth in section F(2)(g), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the zoning administrator to be necessary to assess compliance with this ordinance.
    - (ii) Legal description of the parent tract and leased parcel (if applicable).
    - (iii) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
    - (iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to section D(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
    - (v) A landscape plan showing specific landscape materials.
    - (vi) Method of fencing, and finished color, and, if applicable, the method of camouflage and illumination.
    - (vii) A description of compliance with sections D(3), (4), (5), (6), (7), (10), (12), and (13) and F(2)(f) and F(2)(g) and all applicable federal, state or local laws.
    - (viii) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
    - (ix) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

- (x) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring towers or structures to provide the services to be provided through the use of the proposed new tower.
- (xi) A description of the feasible location(s) of future towers or antennas within the township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (c) *[Technology not requiring towers.]* Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- (d) *[Criteria for permit issuance.]* Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to article XIX of this ordinance, the planning commission and township board shall consider the following factors in determining whether to issue a special use permit, although the township board may waive or reduce the burden on the applicant of one or more of these criteria if the township board concludes that the goals of this ordinance are better served thereby:
  - (i) Height of the proposed tower;
  - (ii) Proximity of the tower to residential structures and residential district boundaries;
  - (iii) Nature of uses on adjacent and nearby properties;
  - (iv) Surrounding topography;
  - (v) Surrounding tree coverage and foliage;
  - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (vii) Proposed ingress and egress; and
  - (viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in section F(2)(e) of this ordinance.
- (e) *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the township board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning commission and township board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements;
  - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;
  - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
  - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
  - (v) The fees, costs or contractual provisions required by the owner in order to share an existing tower or to

adapt an existing tower or structure for sharing [are] unreasonable. Costs exceeding new tower development are presumed to be unreasonable;

- (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (f) *Setbacks.* The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the township board may reduce the standard setback requirements if the purpose and goals of this ordinance would be better served thereby:
  - (i) Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.
  - (ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (g) *Separation.* The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the township board may reduce the standard separation requirements if the purpose and goals of this ordinance would be better served thereby.
  - (i) Separation from off-site uses/designated areas.
    - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in table 1, except as otherwise provided in table 1.
    - (b) Separation requirements for towers shall comply with the minimum standards established in table 1.

Table 1

| Off-site use/designated area  | Separation distance   |
|---|---|
| Single-family or duplex residential units <sup>1</sup>  | 200 feet or 300 percent height of tower <sup>2</sup> whichever is greater |
| Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired | 200 feet or 300 percent of height of tower whichever is greater           |
| Vacant unplatted residentially zoned lands <sup>3</sup>   | 100 feet or 100 percent height of tower whichever is greater              |
| Existing multifamily residential units greater than duplex units  | 100 feet or 100 percent of height of tower whichever is greater           |
| Non-residentially zoned lands or nonresidential uses  | None; only setbacks apply.  |

1. Includes modular homes and mobile homes used for living purposes.

2. Separation measured from base of tower to closest building setback line.

3. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex.

- (ii) Separation distances between towers.
  - (a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The minimum separation distance for towers of 75 feet or less shall be one mile; for towers in excess of 75 feet not to exceed 90 feet, separation distance shall be 1.25 miles; and in excess of 90 feet but not to exceed 120 feet, the separation distance shall be 1.5 miles.
- (h) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the township board may waive such requirements as it deems appropriate.
- (i) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the township board may waive such requirements if the purpose and goals of this ordinance would be better served thereby.
  - (i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
  - (ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced, waived or postponed and the special use permit may require installation of landscaping at a later date based upon changes in surrounding area land use.
  - (iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- G. *Buildings or other equipment storage.* Buildings to house equipment used in association with antennas or towers shall not exceed there 360 square feet in floor area and nine feet in height for each user. Provided, however, upon good cause shown, the planning commission may allow a larger structure if necessary to serve the particular tower or number of users. Equipment cabinets utilized for antennas mounted on structures, rooftops, utility poles, light poles or similar facilities shall be no larger than necessary to serve each user of said antenna.
- H. *Removal of abandoned antennas and towers.* The tower owner shall advise the township of discontinuance of tower use or abandonment within 60 days of such discontinuance. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the township notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds for the township to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The township may, as a condition for approval, require a financial guarantee in the form of a performance bond, cash deposit or irrevocable letter of credit to provide sufficient funds for removal of abandoned towers and buildings associated therewith.
- I. *Non-conforming uses:*
  - (1) *No expansion of non-conforming use.* Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a non-conforming use or structure.
  - (2) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such

preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

- (3) *Rebuilding damaged or destroyed non-conforming, towers or antennas.* Notwithstanding section I, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the setback and separation requirements specified in sections F(2)(f) and F(2)(g). The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as set forth in section 8.

- J. *Final determinations, written decision.* No determination rejecting a request to place, construct or modify personal wireless facilities, including wireless communication towers, shall be final until a written decision is adopted by the township entity which made the decision.

(Ord. No. 31.23, § 1, 4-11-1999)

Sec. 19.13. - Soil, sand or gravel removal, quarries and other mining operations.

- A. *Intent and Purpose.* It is the intent of this section to provide adequate regulations for Mining Operations which will serve the following purposes: to safeguard the health, safety, and welfare of the community; to ensure that Mining Operations shall be situated in compatible locations in relation to other land uses; to encourage sustainable practices in regard to the use of lands and natural resources in the Township; and to reduce hazards to life and property.

The following provisions of this ordinance are intended to make applicants aware that all sand and gravel pit or quarrying operations require the submission of a detailed proposal of the Mining Operation and activities to be conducted.

- B. *Applicability of Regulations.* If the proposed Mining Operation does not contain on-site processing, then the planning commission shall determine which, if any, of the requirements detailed under subsections C through G shall apply. For all other Mining Operations, the requirements under subsections C through G shall apply as specified.
- C. *Additional Standards for Site Plan Approval for Mining Operations.* In addition to standards required by Section 20.04 for a site plan in general, Mining Operations shall be required to address the following additional site plan standards:
- (1) *Fencing and gates.* To the extent that it is deemed necessary by the Planning Commission, the development shall be enclosed by a fence not less than five feet high. Such fences shall be placed no closer than 50 feet from the bottom of any slope. A suitable gate shall be installed at the access point to the site from a public highway. Entrances and exits shall be securely locked during hours when not in operation.
  - (2) *Road Access and Entranceways.* There shall not be more than one entranceway from a public road to the Mining Operation site for each 100 feet of public road frontage. Entranceways shall be no closer than 300 feet for roads 35 mph and less or 500 feet for roads greater than 35 mph to the intersection of the right-of-way of any two public streets. The Planning Commission at its discretion shall have the authority to adjust these entranceway distances for matters of public safety and environmental concerns. All sites permitted under the provisions of this Section shall have direct access to a County road having a minimum right-of-way width of 66 feet. A paved road from the entrance and exit, a distance of not less than 100 feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway, with at least 150 feet of crushed rock surface before the paved portion. When the permitted operation

results in the mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the applicant to remove such material immediately. All other requirements of the Clinton County Road Commission regarding Commercial Drive Permits must also be satisfied. In the event of a conflict between the Road Commission's requirements and this section, the greater requirement shall prevail.

- (3) *Screening.* All active mining excavations shall be visually screened at ground level year-round from the view of a person standing on the paved portion of the public highway or from the lot line of adjacent parcels. The following methods are acceptable for screening of mining areas:
- (a) Construction of a raised earth berm area on the mining site along boundary lines thereof where such lines abut a public highway or abut privately owned property which is improved and occupied for residential purposes. The berm shall be sufficient in length and height to screen the mining area but in no case shall be less than five feet in height. During the first planting season following the placement of the berm, and as often as may be necessary to assure the existence of a vegetative ground cover, the applicant shall seed or plant the berm in a manner suitable for the area and soil conditions so as to provide vegetation to check erosion and to provide a visible ground cover substantially similar to the vegetation cover growing in adjacent properties. Where the topography of the area acts as a screen, the Township Board may waive the berm requirement. The berm shall have slopes not in excess of one foot vertical to two feet horizontal.
  - (b) Planting of coniferous trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining area.
  - (c) To the extent that the foregoing is not practical or appropriate, the applicant may submit alternate proposals.
  - (d) The amount and extent of required screen shall be reasonable and practical as determined by the Township Board.
- (4) *Processing Plants.* Any processing plant, crushing rock or stone shall not be located closer than 250 feet from interior boundary lines of the property and public rights-of-way or less than 500 feet from any residential district and shall, where practicable, be as close to the center of the subject property as possible and at a lower level than the surrounding terrain to lessen visual and noise impact.
- (5) *Equipment, machinery, and stockpiles.* No digging or excavating apparatus, stockpiling, loading or transportation equipment, structure, or fixed machinery shall be erected or maintained within 50 feet of any property or street line.
- (6) *Lighting.* If it is deemed necessary by the Planning Commission, adequate on-site lighting for security purposes shall be provided. Exterior lighting shall be so arranged that it is deflected away from adjacent properties so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted. All lighting must be mounted in such a manner so as to not cast light onto any adjacent property in such a way as to disrupt the use of that property or the quiet enjoyment of the residents of that property.
- (7) *Signs.* Adequate warning signs shall be posted at each mining facility. These signs are to be a minimum of two square feet in area, and are to be posted each 100 yards on the perimeter fence of each mining facility unless otherwise specified. The signs shall include at least the following:
- (a) Authorized personnel only.
  - (b) No trespassing
  - (c) Emergency telephone number.
- Signs providing emergency shutdown procedures shall be placed on operating equipment.

8. *Operation of Use.* All equipment and facilities used in a mining operation shall be conducted, maintained, and operated in such manner as to eliminate insofar as practicable, noises, vibrations, or dust which interfere with reasonable use and enjoyment of surrounding property.
  9. *Noise Standards.* Mining sites shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.
- D. *Required Conditions to be Addressed Prior to Special Use Permit Approval.* The following conditions must be specifically addressed before a Special Use Permit may be approved:
- (1) *Proximity to incompatible zoning districts.* Digging, stockpiling or excavation shall not take place closer than 300 feet to any Low Density Residential (L), Medium Density Residential (M) or Public (P) district.
  - (2) *Surety Bonds.* Before issuance of a special use permit, a surety bond shall be filed by the applicant. A bond as such shall be executed by a reputable surety company authorized to do business in the State of Michigan and shall run to the Township in an amount established by the Township Board, conditional upon the prompt and complete compliance with all the provisions of this section. In establishing the amount of the bond, the Township Board shall consider the Planning Commission's recommendation, the scale of operations, prevailing costs to rehabilitate the property upon the default of the operator, court costs, and other reasonable expenses. The Planning Commission's recommendation for site rehabilitation surety calculations shall be an amount established by the Planning Commission in consultation with its engineer, and not less than \$1,500 per acre proposed to be mined or excavated. The Commission's recommendation shall take into consideration only areas of the project site that require rehabilitation. The surety bond shall remain in effect for one year after completion of rehabilitation according to approved plans. No portion of the surety bond shall be released until the Township has determined by inspection and/or other factual documentation that the rehabilitation has been completed according to the approved plans. Upon determination by the Township that rehabilitation has been completed according to approved plans, the Township Board shall provide notice that the surety bond is no longer necessary.
  - (3) *Insurance.* It shall be the responsibility of the applicant to demonstrate sufficient bodily injury liability insurance during the time period permitted for operation by the special use permit. Bath Charter Township shall be named as an additional insured on such a policy.
  - (4) *Phasing, reclamation, and future land use plans.* The applicant shall provide an estimated timeframe for completion of each phase of the extraction project and a description of the mining activity to be conducted, including the type of deposit to be extracted. All areas shall be rehabilitated as they are completed. Submission of a phased rehabilitation plan showing anticipated safety measures, grading plan of rehabilitation slopes, water level, ground cover, changes to ingress/egress points, and anticipated amount of material removed shall be required. Phase documentation and future land use shall be submitted for 25%, 50%, 75%, and 100% project completion. Additionally, the applicant shall provide documentation sufficient to the Township of a final land use and/or reclamation concept which addresses the intended use after all mining activities have ceased on site. Sites shall be rehabilitated to a standard compatible with the surrounding location. Site restoration improvements shall conform to the appearance of the surrounding properties and rehabilitated sites shall be lacking in hazard. All slopes and banks shall be graded to angles which do not exceed one foot vertical to three feet horizontal, and they shall be treated to prevent erosion. Expected land covers to be identified in this reclamation plan include: native grass and/or wildflower mix, wetland seed mix, agricultural fields, turf grass, or similar cover as approved by the Planning Commission and applicable reviewing agencies.
  - (5) *Dust control plan.* The applicant shall submit a dust control plan to the Township which shall be reviewed and

approved by the Township Administration, in coordination with the County Road Commission. The dust control plan shall consist of a signed agreement by the applicant to apply chloride monthly when there is no frost and on an as needed basis. Additionally, the dust control plan shall require the applicant to provide a water truck on site during excavation operations and apply water as needed to keep dust from leaving the site. In addition, the township superintendent or their designee may order a temporary cessation or modification of operations in case of conditions which cause dust to leave the site.

- (6) *Approved haul routes.* The Township Board, in coordination with the Clinton County Road Commission, shall approve routes for truck movement in and out of the site in order to minimize the wear and tear on public streets, to prevent hazard or damage to properties and to avoid densely populated residential area. A haul route with applicable speed limits approved by the Clinton County Road Commission shall be submitted to the Township prior to the issuance of a Special Use Permit. In addition, the township superintendent or their designee may order a temporary cessation or modification of operations in case of conditions which cause unacceptable conditions of runoff, dust, or sedimentation.
  - (7) *Roadway maintenance.* The Township shall require that the applicant enter into an agreement with the Clinton County Road Commission for the maintenance of those roads designated as routes for the transport of the extracted materials, as the Road Commission deems appropriate. Access roads within the permitted site shall be maintained by the applicant so as to minimize the dust, sedimentation, or runoff arising from the use of said roads. Application of oil or other environmentally hazardous materials in roadway maintenance shall be prohibited.
  - (8) *Hours of operation.* Absolute hours of operation shall be determined based on the proximity to potentially incompatible land uses. Hours of operation are absolute, including any on-site operations not directly related to the extraction of material and offsite stacking of equipment in the public right of way, including the parking of trucks or semi-trailers. In emergency situations, this time period may be modified by the Township Supervisor provided such emergency order shall not be effective for more than 72 hours.
  - (9) *Permit Coordination.* Prior to the approval of a Special Use Permit, there shall be submitted to the Zoning Administrator the following approved permits in all cases where such permits are required or applicable:
    - (a) Driveway permit as approved by the Clinton County Road Commission or MDOT, as applicable.
    - (b) Soil Erosion and Sedimentation Control Permit from Clinton County Equalization Department.
    - (c) Drain Use Permit and/or approved culverts from the Clinton County Drain Commissioner.
    - (d) NPDES permit from Michigan Department of Environmental Quality (MDEQ).
    - (e) Other permits from local, county, or state authorities as pertinent such as transport, storage, use, and/or disposal of hazardous substances, waste, or other materials.
- E. *Required Conditions to be addressed during Site Mining Activities.* The following conditions must be satisfied during site excavation activities:
- (1) *Continuing Obligations.* All conditions of the special use permit and conditions for obtaining a special use permit provided in this Ordinance must be maintained at all times while the mining operation is active.
  - (2) *Orderly Installations.* All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to individual property and persons of the community in general.
  - (3) *Protecting Water Resources.* Operations shall be conducted in such a way as not to cause the pollution by any material of any surface or subsurface water body. All Mining Operations shall comply with the rules and regulations of the Clinton County Drain Commissioner and the Michigan Department of Environmental Quality (MDEQ).



- (4) *Prevention of Soil Erosion and Sedimentation.* The soil erosion and sedimentation control standards of Clinton Cour Natural Resources and Environmental Protection Act (NREPA, Part 91) as administered by the MDEQ shall be follow
  - (5) *Steep slopes.* At no time shall slopes on previously excavated areas outside the active working area be left at greater than 30 degrees pending rehabilitation. And no finished grade shall exceed one in three, three feet horizontal to one foot vertical respectively.
  - (6) *Status reporting.* It shall be the responsibility of the applicant to submit written status reports to the Township that detail any air, water, or noise pollution complaints and/or vehicle accident reports involving the operator or hauling contractor along the designated haul route, as well as steps taken to address the complaint/event. Status reports shall be provided annually to the Township. The Township may require submission of additional reports at milestones as part of Special Use Permit Approval. A reporting template form may be obtained from the Planning Director.
  - (7) *Inspection.* The Township, through its agents, shall have the right to schedule periodic visits to verify any information provided by the applicant or any approved special use permit to determine if the conditions of any approved Special Use Permit have been complied with.
- F. *Additional Assurances and Compliance.* As part of the Special Use Permit review process, Bath Charter Township may require additional assurances or compliance with provisions, specific to the application at hand and in excess of the above-mentioned items.

(Ord. No. 31.53, § 3, 12-5-2016)

Sec. 19.14. - Public or private junkyard.

- A. Intent. It is the intent of this section that certain minimum standards of operation be established for junkyards as uses that because of prior functional characteristics have a high potential of impact on surrounding properties or the aesthetic quality of the community as a whole.
- B. Such uses shall be established and maintained in accordance with all applicable State of Michigan statutes and regulations.
- C. The minimum site area allowable for a junkyard, shall be ten acres.
- D. Shall be fenced around the entire periphery of the property in use with a solid screen of sound construction, painted, or otherwise finished neatly and inconspicuously.
- E. All activities shall be confined within the fenced areas. No equipment, material, signs, or lighting shall be used or stored outside the fenced area.
- F. Fences shall be set back 100 feet from any public street.
- G. No burning beyond the limited amount normally associated with a residence shall be permitted.
- H. Junk, automobiles or other debris may not be stacked in any manner such that it could be visible outside the site. Junkyards or landfills shall not be located in areas which are impossible to screen from view from adjacent properties or public streets.
- I. Junkyard, as allowed in the D development district, refers only to those uses of land or structures which involve, and are limited to, the storage of used, inoperative motor vehicles, salvage and resale of used motor vehicle parts and the cartage of motor vehicles in wrecked or inoperable condition.

The following minimum standards for site development and site use shall be established for [a] junkyard located in the D development zoning district:

- (1) All such uses shall not be established on land in the township until a special use permit has been issued by the

township and all license requirements of the Michigan Department of State, Bureau of Automobile Regulation (or successor) have been fully complied with. All such uses shall further be maintained in accordance with all applicable State of Michigan statutes and regulations.

- (2) The minimum site area for establishment of a junkyard in the development district shall be ten acres. In the case of previously established uses of land in this category, the planning commission may recommend and the township board may authorize a special use permit on a site of less than the minimum area, subject to final site approval and other conditions which may be required to ensure proper utilization of the site and minimal impact on adjacent properties.
- (3) All activities involving motor vehicle storage, salvage of used motor vehicle parts, assembly of parts, cutting or welding activities and repair of motor vehicle components shall be confined within [a] screened enclosure as required in the paragraph immediately following [subsection I(4)]:
- (4) Outdoor motor vehicle storage and all permitted and related activities shall be screened by an opaque fence or wall, earthen berm covered with turf or other plantings, or by a dense evergreen planting. Such screening shall be designed so as to completely obstruct view of stored materials and salvage operations from public streets and occupied structures on adjoining lands. Such screening shall be shown on the site plan submitted for approval in connection with the special use permit application.
- (5) Screening required in connection with this section shall be set back a minimum of 100 feet from any public street.
- (6) All oil, gasoline, hydraulic or other fluids shall be drained from all vehicles stored on the site and placed in holding tanks for future disposal off the site. Every effort shall be made to prevent any material of this type from entering the soil.
- (7) No burning beyond the limited amount normally associated with a residential land use shall be permitted.
- (8) Motor vehicles, motor vehicle components or other materials or equipment associated with this use shall be stacked or piled so as not to be visible from a public street or occupied structures on adjoining land.
- (9) Steps satisfactory to the Mid-Michigan District Health Department (or successor) and the township shall be taken to control rats and other rodents on the site.
- (10) The intensity level of sounds generated by the operation of a junkyard located within 500 feet of a residential land use shall not exceed 55 decibels when measured at the property line of the residential use which is closest to the junkyard except between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday.
- (11) The operator of any junkyard for which a special use permit is issued shall, as a condition of such permit, agree and be subject to periodic on-site inspections by the zoning administrator to ensure continuing compliance with this section and any special conditions of the special use permit.

Sec. 19.15. - Public or private sanitary landfills.

- A. Intent. It is the intent of this section that as with other special uses, certain minimum standards of construction and operation be established for sanitary landfills. Said standards are those required by the state of Michigan, adopted herein by reference. Given the significant potential impacts of such a use, the township board reserves the option of imposing additional, reasonable requirements or safeguards.
- B. All landfills shall be established and maintained in accordance with all applicable State of Michigan statutes and regulations.
- C. Approval of the site plan and site geologic suitability must be obtained from the appropriate regulatory division

within the department of natural resources prior to review of a special use permit application.

- D. All minimum conditions, safeguards and operating procedures as specified within Act 641 of the Public Acts of 1978, Solid Waste Management Act (Repealed—See now MCL 324.11501 et seq.), as amended or rules and regulations promulgated thereto, shall be complied with. The township board may impose such additional conditions, safeguards or operating procedures deemed necessary for the public health, safety and general welfare; the protection of individual properties; and for insuring the intent and purpose of this ordinance.

Sec. 19.16. - Mobile home parks.

- A. *Intent.* It is the intent of this section to provide for the establishment in a district of comparable intensity of land use, well designed mobile home parks. The regulations and conditions contained in this section are designed to ensure that mobile home parks will provide a comfortable and pleasing environment for persons who seek mobile home residence. Regulations and conditions contained in this section are intended to ensure that mobile home park developments will be served adequately by essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, refuse disposal, schools, and police and fire protection. The township board may, by the issuance of a special use permit, authorize the establishment of a mobile home park in the D or M districts or such authorization shall be granted only when all the applicable procedures and requirements stated herein are complied with.
- B. *General requirements, restrictions and standards.*
- (1) *Minimum project area.* Minimum project area for a mobile home park development shall be 15 acres.
  - (2) *Location.* Mobile home parks may be located only in the D or M districts, upon approval of the planning commission and in accordance with the following standards:
    - (a) The site shall be adjacent to and serviced by a major arterial or county primary street.
    - (b) The site shall be serviced by existing or programmed essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, and police and fire protection.
  - (3) *Uses permitted.* Only the following land and/or building uses may be permitted under the provisions of this section:
    - (a) Mobile homes as defined in this ordinance.
    - (b) One office building exclusively for conducting the business operations of the mobile home park.
    - (c) Utility buildings for laundry facilities and auxiliary storage space for mobile home tenants.
    - (d) Recreation areas, community building, playground and open space for use by mobile home park tenants.
    - (e) Such additional accessory buildings and uses as are customarily incidental to mobile home park development, except that this shall not include the sale of mobile home units other than by their individual resident owners or the servicing of mobile home units except as is required for normal maintenance by the individual resident owner or his contractors.
    - (f) Signs pertaining exclusively to the mobile home park.
  - (4) *General development standards:*
    - (a) The design and development of mobile home parks shall be subject to all current provisions of the mobile home commission general rules as adopted by the Michigan Mobile Home Commission, which are hereby incorporated by reference as a part of this ordinance.
  - (5) *Operating standards:*
    - (a) The operation and business practices of mobile home parks shall be subject to all current provisions of the

mobile home commission general rules as adopted by the Michigan Mobile Home Commission, which are hereby incorporated by reference as a part of this ordinance.

- (b) No part of any mobile home park shall be used for non-residential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of mobile home parks.
- (c) Home occupations shall be prohibited from mobile home parks.
- (d) The keeping of livestock shall be prohibited from mobile home parks.

Sec. 19.17. - Mobile home subdivision.

- A. *Intent.* It is the intent of this section to provide for the establishment of mobile home subdivisions in an attractive and orderly manner in Bath Charter Township.

It is the further purpose to promote well designed mobile home subdivisions in districts of a comparable intensity of land use, thereby providing a comfortable and pleasing environment of persons desiring mobile home residence on individually owned lots. Regulations and conditions contained hereinafter are intended to ensure that such developments will be adequately served by essential public facilities and services.

- B. *General requirements, restrictions and standards.*

- (1) *Minimum project area.* Minimum project area for a mobile home subdivision shall be 15 acres.
- (2) *Location.* Mobile home subdivisions may be located only in the D and M districts, upon approval of the planning commission and in accordance with the following standards:
  - (a) The site shall be adjacent to and serviced by a major arterial or county primary street.
  - (b) The site shall be serviced by existing or programmed essential facilities and services such as access streets, potable water, sanitary sewer and storm drainage facilities, and police and fire protection.
- (3) *Uses permitted.* Only the following land and/or building use may be permitted under the provisions of this section:
  - (a) Single-family detached dwellings.
  - (b) Mobile homes as defined in this ordinance.
  - (c) Accessory uses as described in section 7.03.
  - (d) Recreation areas, community building, playground and/or open space for use by subdivision residents.
- (4) *Site development standards.* The site development standards of the district in which the mobile home subdivision is located, including lot area, width, coverage and yard and setback requirements, shall apply.
- (5) *Subdivision review.* The specifications and procedural requirements of the Subdivision Control Act of 1967 (Act 288, P.A. of 1967, as amended) (MCL 560.101 et seq.), shall be met.

Sec. 19.18. - Reserved.

**Editor's note**— Ord. No. 31.44, § 2, adopted Feb. 4, 2013, repealed § 19.18, which pertained to Private roads serving more than one lot and derived from the Code of 2004.

Sec. 19.19. - Accessory apartment or "ECHO" housing.

- A. *Intent.* It is the intent of this section to provide standards that will allow extended family living in what have traditionally been single-family only, zoning districts and neighborhoods. Such provisions will permit the conversion

of a single-family dwelling to include an accessory apartment, as a means of accommodating an elderly parent or other family member, or extending the economic life of a large, older home. Also permitted will be the placement of detached, removable, self-contained residential units designed for installation on the same lot as the principal dwelling, usually in the back yard. It is intended that by providing housing opportunities for the elderly or an extended household a vital need can be met without diminishing the quality of the affected neighborhood; this allows independence and yet close contact to younger family members.

- B. *Accessory apartment.* In addition to those requirements set forth in section 19.02, the following provisions shall be met:
- (1) Only owner-occupiers are permitted to install or rent accessory apartments.
  - (2) There shall be no visible change in the exterior appearance of the dwelling containing the accessory apartment that will alter the single-family appearance of the dwelling.
  - (3) All improvements associated with construction of the accessory apartment shall meet current, applicable codes.
  - (4) Any additional parking as needed or required by this ordinance shall be provided in off-street space.
  - (5) Adequate provision for wastewater disposal, either by public sanitary sewer or expanded private on-site facilities, shall be required.
- C. *Elderly Cottage Housing Opportunities (ECHO).* In addition to those requirements set forth in section 19.02, the following provisions shall be met:
- (1) Only owner-occupiers of the principal dwelling are permitted to install ECHO housing units.
  - (2) Said ECHO housing units shall be temporary in nature and are to be removed upon cessation of the occupancy for which they are intended. Special use permits for ECHO housing may be issued for time periods as determined by the township board.
  - (3) The front and side yard requirements applicable to the principal dwelling shall be complied with in placement of the ECHO housing unit. The township board shall determine rear yard requirements upon consideration of lot size and placement of surrounding structures or uses.
  - (4) The ECHO housing unit shall meet all applicable codes for manufactured housing or mobile home dwellings.
  - (5) Any additional parking as needed or required by this ordinance shall be provided in off-street space.
  - (6) The township board may impose any other reasonable conditions including lot coverage, landscaping, skirting of mobile home units and similar requirements deemed necessary to protect adjoining properties and the public welfare; mobile home sections of zoning ordinance shall apply.
  - (7) ECHO housing unit shall only be approved upon a showing of hardship or medical disability supported by medical documentation.
  - (8) ECHO housing unit is intended only for single individual use.
  - (9) ECHO housing unit will not be approved if it is apparent that the requested action is primarily for economic advantage.
  - (10) Bonding to insure removal will be required for each ECHO housing unit; the minimum bond shall be \$2,000.00; amount of bond shall be indicated in special use permit.
  - (11) ECHO housing unit is a limited privilege not a right.
  - (12) ECHO housing application will not be approved by the planning commission if another feasible alternative exists.

Sec. 19.20. - Horses in non-agricultural areas of the township.

- A. *Intent.* It is the intent of this section to establish provisions allowing for the keeping of horses in other zoning

districts outside of the rural zoning district and low density residential district for recreational, non commercial purposes only.

B. *Minimum requirements.* The table below establishes a minimum acreage requirement for horses based on the zoning district. The acreages are based on a sliding scale to help protect neighbors from nuisances in more intense zoning districts. Due to unique or unusual circumstances such as properties with sensitive environmental considerations or agency review issues, this table does not guarantee to permit the maximum allowable number of horses in each zoning district.

| Zoning District            | Minimum acreage for 1st horse | Additional acreage per horse after minimum | Maximum number of horses allowed |
|----------------------------|-------------------------------|--|----------------------------------|
| Medium Density Residential | 4                             | 1  | 4                                |
| High Density Residential   | 8                             | 1  | 4                                |
| High Density Developmental | 8                             | 1  | 4                                |
| Developmental              | 8                             | 1  | 4                                |

C. *General requirements.* In addition to those requirements set forth in section 19.02, the applicant shall submit the following information to the planning commission for their review. Please indicate on or along with the site plan, the following information:

- (1) The number of horses that will be kept on the property
- (2) Indicate and describe where the horses will be housed and/or enclosed on the site plan.
- (3) Provide a manure management plan that indicates where the manure will be stored and how it will be handled. To reduce the impact on neighbors and the environment, any manure that will not be used on site needs to be transported off site regularly no less than every three months. Any storage of manure shall be properly screened away from neighboring residents.
- (4) Persons that have horses outside of the rural and low density residential zoning districts shall comply with Michigan Department of Agriculture's Generally Accepted Agricultural and Management Practices (GAAMPS) Equine section for the Care of Farm Animals. GAAMPS provides guidance on nutrition, environment, facilities and equipment, health care and medical procedures, as well as current state and federal laws.
- (5) Ensure that the requirements of any accessory building(s) or fencing meet the setback requirements of fencing and accessory buildings as outlined in sections 15.08 and 15.09.

(Ord. No. 31.40, § 1, 3-19-2012)

Sec. 19.21. - Gun clubs and commercial sport shooting range development standards.

A. *General Requirements.*

- (1) *Design and Operation Standards.* The design and operation of such facilities shall be consistent with the specifications and best practices recommended by the National Rifle Association; and shall conform to the generally accepted operation practices adopted pursuant to the Michigan Sport Shooting Ranges Act, Public Act 269 of 1989. The design of the facility shall clearly show that safety of persons on and off the site is guaranteed. This shall mean that no projectile of any kind may be permitted to leave the site. Unless this safety requirement is clearly indicated by the design plans, a permit shall not be issued.
- (2) *Dimensional Requirements.* Ranges must be located on a parcel of five (5) acres or more in area. Any area used for shooting activities must be located at least 250 feet from a lot line of any adjacent residential district.
- (3) *Parking.* Off-street parking shall comply with Article XVII.
- (4) *Hours of Operation.* Shooting on the range shall be limited to the hours between sunrise and sunset but not prior to 9:00 a.m. or later than 8:00 p.m. The Township Board may apply more restrictive hours where protection for adjoining residents is necessary.

(Ord. No. 31.52, § 3, 11-7-2016)

ARTICLE XX. - SITE PLAN REVIEW

Sec. 20.01. - Purpose.

It is the purpose of this section to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the township; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values, and investments, by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or alterations thereto, without proper attention to setting or to unsightly or undesirable appearances; harmonious relationships of buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

Sec. 20.02. - Approval required.

Site plan review approval is required as follows:

- A. For those uses requiring special use permit review, as specified.
- B. All land uses, excepting single-family detached dwellings, two-family dwellings and non-residential uses requiring less than five parking spaces.

Sec. 20.03. - Procedures for site plan review.

- A. *Application.* Application for site plan review shall be submitted through the township clerk to the planning commission on a special application form for that purpose; each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover the costs of processing the application. No part of any fee shall be refundable.
- B. *Data required in application.* Every application shall be accompanied by the following information and data, if applicable:

- (1) [ *Application.* ] Application form supplied by the township clerk filled out in full by the applicant.
- (2) *Sketch plan.* Submitted prior to site plan as a pencil sketch only, no work done as yet in field, surveys, or otherwise. Reviewed by the planning department to meet requirements of zoning ordinance and subdivision regulations. This requirement is included to save the developer much time in the review procedure and money insofar as needless paperwork and field work is concerned. All of sections 20.03, 20.04 and other sections will be considered during the sketch plan review.
- (3) *Preliminary and final site plans.* The developer shall submit a site plan, and the planning commission shall review same at its next regularly scheduled meeting. The site plan shall be a representation of the developer's intent for all of the developer's property contiguous to the initial property to be developed. Final site plan approval may be for a portion of the total property delineated in the site plan. Before final site plan approval is granted, however, all requirements of this section shall be met, including financial agreements.
- (4) [ *Copies.* ] Fifteen copies of a site plan on 24" × 36" prints at a readable scale showing:
  - (a) Property dimensions, north arrow and scale.
  - (b) Size, shape and location of existing and proposed buildings and structures.
  - (c) The location of parking areas, all parking spaces, driveways, sidewalks, and trailways (trailways include jogging, biking, and other trails).
  - (d) Existing public rights-of-way, and/or private easements.
  - (e) Water courses, and water bodies, including surface drainage ways.
  - (f) Existing significant vegetation.
  - (g) A landscaping plan indicating locations of proposed street trees, planting and screening, fencing, signs and advertising features.
  - (h) Zoning classification of abutting properties.
    - (i) Existing and proposed utilities, e.g., water, sewer, gas, electric, telephone, etc., delineated within street right-of-way.
    - (j) Wetlands, as designated in Bath Charter Township Development Plan; see section 20.04K of this ordinance.
  - (k) Existing and proposed parks and recreation areas.
    - (l) Road and street right-of-way lines.
  - (m) A title block, with pertinent information and "date of planning commission approval \_\_\_\_\_".
  - (n) Contour lines at one-foot or two-foot intervals, whichever is appropriate.

C. *Planning commission review.*

- (1) Upon receipt of an application for site plan review, including all data required in section 20.03B, township clerk shall transmit one copy of the site plan to each of the following agencies considered to be impacted or affected by the request for their review and comment (e.g., county drains — Clinton County Drain Commission; curb cuts — Clinton County Road Commission, etc.)
  - (a) Clinton County Road Commission.
  - (b) Mid-Michigan District Health Department.
  - (c) Clinton County Drain Commissioner.
  - (d) Clinton County Department of Development Control.
  - (e) School district—superintendent of schools, (Bath, Laingsburg, or Haslett).
  - (f) Fire chief.



- (g) Police chief.
  - (h) Department of natural resources (for wetlands).
- (2) The clerk shall transmit the remaining copies of the site plan to the planning commission.
- (3) The planning commission, upon receiving the comments of the above affected agencies shall proceed with review of the site plan to determine compliance with permitted land use, density of development, general traffic and pedestrian circulation, and other provisions of this ordinance.

The planning commission shall respond to the applicant within 45 days of filing as to the approval, denial, or approval with modifications of the site plan. If denied, the commission shall cite reasons for denial, and if approved a certificate of site plan approval shall be issued to the applicant by the zoning administrator.

(Ord. No. 31.32, § 9, 10-20-2003)

Sec. 20.04. - Standards for site plan approval.

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.
- B. The landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas; see section 20.04j.
- C. Special attention shall be given to proper site surface drainage so that removal of stormwaters will not adversely affect neighboring properties.
- D. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- F. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- G. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential properties or public thoroughfares, shall be screened, by a vertical screen consisting of structural (fence) or plant materials no less than six feet in height.
- I. Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
- J. Soil erosion control plan (Clinton County Soil Erosion and Sedimentation Control Ordinance).
- K. Wetland property within Bath Charter Township that is contiguous to waters of the state (e.g., Great Lakes, rivers, streams, lakes and ponds, and connecting waters of the Great Lakes) or otherwise regulated by state law cannot be drained, filled, dredged or destroyed without a permit from the Michigan Department of Natural Resources under the Goemaere-Anderson Wetland Protection Act, 1979 PA 203 [repealed see now MCL 324.30301 et seq.], and, if required, the United States Army Corps of Engineers under section 10 of the Federal River and Harbor Act of 1899. (Agricultural and some mining activities are partially exempted).

The Michigan Wetland Protection Act (Act 203 [repealed see now MCL 324.30301 et seq.]) defines a wetland 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 the land is contiguous to Lake Michigan, or any inland lake, river, stream or pond; or is greater than five acres in size; or the Michigan Department of Natural Resources has determined that protection is essential.

Major wetland areas are designated in the township's development plan. Although not official designations by the Michigan Department of Natural Resources, the areas indicated are likely to show the physical and biological characteristics of wetlands. The zoning administrator will notify each wetland owner that applies for a zoning permit of the need to contact the Michigan Department of Natural Resources concerning a wetland determination and, where necessary, the need to obtain a permit prior to the commencement of the proposed construction activity.

Sec. 20.05. - Action by planning commission.

The planning commission shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of these regulations, the design and site plan of all proposed buildings or structures, or the development of the entire property, the specifications of all exits, entrances, streets, highways, or other means of ingress and egress, the proposed timing of construction, the proposed manner of dedication to the public or maintenance of same and the construction of appropriate screens or buffers.

Sec. 20.06. - Modification of approved site plan.

- A. *Major Amendments.* Once site plan approval has been granted by the planning commission, changes to the approved site plan which are determined to be major amendments shall require a resubmission to the planning commission and payment of fees. Any site plan associated with a special use permit is a major amendment.
- B. *Minor Amendments.*
- (1) Any person who has been granted an approval of their site plan must notify the Planning Director if they would like to make an amendment to the existing approved site plan. Major amendments to existing site plans require that the individual go through the same filing and review procedures as the original approval process. Minor changes may be approved administratively by the Planning Director. In cases where a determination cannot be made, the Planning Director may submit the plan to the Planning Commission for an interpretation.
  - (2) Minor amendments to approved site plans are limited to the following activities and amendments, provided they still meet the standards of the zoning ordinance:
    - (a) Floor plans may be revised, so long as they are consistent with the character of the buildings use.
    - (b) Gross floor area in buildings may be reduced or increased by up to five percent (5%) or 5,000 square feet, whichever is less, so long as there is no increase in the number of dwelling units in residential buildings.
    - (c) Horizontal and vertical dimensions may be altered up to five percent (5%).
    - (d) Areas designated as open space may be increased in area.
    - (e) Parking spaces in a parking lot may be internally rearranged. The number of spaces may increase or decrease by 10% or six spaces, whichever is fewer. Handicap accessible spaces may be enlarged and the number of accessible spaces may be increased as long as the total number of spaces and parking area remain the same. Any reduction or rearrangement of handicap accessible parking shall require review by the Building Department.
    - (f) Changing the building materials or landscaping elements to a comparable or higher quality.

- (g) Ensuring that the building meets updated standards for accessibility, such as those outlined by the Americans with Disabilities Act.
- (h) The modification of approved signage, as long as the proposed sign meets all district setbacks and the standards of Zoning Ordinance Article XVIII, Signs.
- (i) Changes of use as allowed by the applicable zoning district.

(Ord. No. 31.57, § 2, 10-16-2017)

Sec. 20.07. - Financial guarantees.

In approving the site plan, the planning commission may require that a cash deposit, certified check, bond, or other financial guarantee acceptable to the township of ample sum be furnished by the developer to insure compliance with such requirements as infrastructure, drives, walks, parking, landscaping and the like. The financial guarantee shall be deposited with the township clerk at the time of issuance of the permit authorizing the project or activity. As work progresses, the planning commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements; see section 20.10, development agreement.

Sec. 20.08. - Fees (same as section 21.06).

The township board shall periodically establish by resolution a schedule of fees for administering this ordinance. The schedule of fees shall be posted on public display in the office of the zoning administrator and may be changed only by the township board. No certificate shall be issued unless such fees have been paid in full; see section 20.09, escrow agreement.

Sec. 20.09. - Escrow agreement.

Fees shall include an escrow account which shall be established for site plans, charging expenses of professionals (engineers, attorneys, etc.) to the developer's escrow account; initial escrow account deposit to be based upon acreage of development; if expenses are less than deposit, then refund of principal (excluding interest, if any) will be made after the site plan is finally approved and complete; if the expenses exceed the initial deposit, then additional deposit sums shall be required when necessary; site plan approval shall not be granted until all these expenses are paid.

Intent. Taxpayers of the township should not have to bear the professional fees to establish a developer's site plan; whatever costs that are encumbered by the township in behalf of developer's site plan(s) should be borne by the developer. It is not the intent of this section to design or re-design the site plan; the escrow account will be used for expert review. The same policy shall exist for section 20.07, financial guarantees.

Sec. 20.10. - Development agreement.

With the submission of a site plan, the land developer and/or owner shall execute a development agreement with the township to insure that all of the customary municipal improvements required by pertinent township ordinances and regulations be properly made, and that money will be made available by the land developer and/or owner to insure the installation of certain site improvements prior to any permits being issued; the development agreement shall be executed before site plan approval of the planning commission; see appendix A (sic).

Sec. 20.11. - Construction guarantees.

In approving the site plan, the planning commission may require a cash deposit, certified check, bond, or other financial guarantees acceptable to the township be furnished by the developer to prevent construction materials (mud, earth, concrete, stone, brush, etc.) being strewn or tracked onto existing off-site paved roads.

**State Law reference**— Performance guarantees, MCL 125.286f.

Sec. 20.12. - Construction drawings.

Based upon the approved site plan, one set of the construction drawings shall be submitted to the planning department for approval before obtaining a zoning compliance certificate and building permit.

Sec. 20.13. - Appeals and questions of interpretation of ordinance.

Any person considering himself aggrieved by the decision of the planning commission in granting or denial of site plan approval shall have the right to appeal said decision to the township board. The appeal shall be exclusive and must be filed with the township clerk within ten days of the decision of the planning commission.

Sec. 20.14 - Site plan expiration.

A final site plan approval shall expire if implementation of the final site plan has not occurred within one year of the date of its approval.

The township board of trustees may grant an extension upon written request, for good cause for such extension being shown.

(Ord. No. 31.32, § 10, 10-20-2003)

ARTICLE XXI. - ADMINISTRATION AND ENFORCEMENT

Sec. 21.01. - Administration.

The administration and enforcement of this ordinance shall be the responsibility of the township supervisor. The supervisor and township board shall have the right to delegate said responsibility to appropriate township officers or employees. The person or persons administering and enforcing this ordinance shall be known as the zoning administrator(s). Said zoning administrator shall have the power of a public officer in the enforcement of this ordinance.

Sec. 21.02. - Duties of zoning administrator.

- A. The zoning administrator shall have the power to issue certificates of zoning compliance and to make inspections of premises and collect such investigative data deemed necessary to carry out his duties in the enforcement of this ordinance. No person shall refuse to permit the zoning administrator to inspect any premises at reasonable times nor shall any person molest or resist the zoning administrator in the discharge of his duties.
- B. If the zoning administrator shall find that any provision of this ordinance is being violated, he shall order discontinuance of any illegal work being done; or shall take such action as authorized by this article to insure compliance with, or to prevent violation of the provisions of this ordinance.
- C. The zoning administrator shall not vary, change or grant exceptions to any terms of this ordinance, or to any person making application under the requirements of this ordinance.

- D. It shall be unlawful for the zoning administrator to issue [a] certificate of zoning compliance or other such permits, for a construction or use until he has inspected such plans and found them to conform with this ordinance.

Sec. 21.03. - Certificate of zoning compliance.

- A. A building permit for erection, alteration, moving or repair of any building shall not be issued until a preliminary certificate of zoning compliance has been issued therefor. Issuance of such certificate shall indicate that the plans for which the building permit is requested complies with the zoning ordinance.
- B. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a final certificate of zoning compliance shall have been issued therefor by the zoning administrator. The certificate shall state that the building, structure, and lot, and use thereof, conform to the requirements of this ordinance.
- C. The zoning administrator shall maintain a record of all certificates of zoning compliance and said record shall be open for public inspection. Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance.
- D. It shall not be necessary for a legal nonconformity existing on the effective date of this ordinance to obtain certificates of zoning compliance in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended until a preliminary certificate of zoning compliance shall have been issued by the zoning administrator. The certificate shall state specifically wherein the nonconforming building, structure or use differs from the provisions of this ordinance.
- E. The applicant for a final certificate of zoning compliance shall notify the zoning administrator when final inspection is desired. The final certificate of zoning compliance shall be issued upon final inspection or written notice shall be given to the applicant stating the reasons why said certificate cannot be issued. Such notice shall be sent to the applicant not later than 15 days after the zoning administrator is notified that the building, structure or premises is ready for inspection.

Sec. 21.04. - Building permits.

- A. No building permit for erection, alteration, moving or repair of any building shall be issued until a certificate of zoning compliance has been issued.
- B. No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the building inspector.
- C. No building permit shall be issued by the building inspector except in conformity with this ordinance, unless he/she receives a written order from the board of appeals or zoning administrator in the form of an administrative review or a variance, as provided by this ordinance.
- D. Plans submitted in application for a building permit shall contain information necessary for determining conformity with this ordinance, including a copy of the certificate of zoning compliance.

Sec. 21.05. - Enforcement and violation.

- A. *Notice of violation.*
  - (1) Whenever the zoning administrator determines that a violation of this Ordinance exists, the zoning administrator may issue a notice of violation.
  - (2) Such notice of violation may be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records.

- (3) All notices of violation shall be in writing and shall be served upon the person to whom they are directed personally or personal service may be mailed by regular mail and addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.
- (4) All violations shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period may be resolved as provided for in Sec 25.05.

(Ord. No. 31.50, § 1, 8-3-2015)

#### Sec. 21.06. - Fees.

The township board shall periodically establish by resolution a schedule of fees for administering this ordinance. The schedule of fees shall be posted on public display in the office of the zoning administrator and may be changed only by the township board. No certificate shall be issued unless such fees have been paid in full.

**State Law reference**— Zoning permit fees, MCL 125.295.

### ARTICLE XXII. - BOARD OF ZONING APPEALS

#### Sec. 22.01. - Creation and membership.

A zoning board of appeals (also known as a board of zoning appeals) is hereby established. The board shall consist of not less than five members, one of whom shall be a member of the township planning commission, and one of whom may be a member of the township board appointed by that board. The term of the township board member shall not exceed said member's term of office on the township board. The remaining members shall be electors of the township residing outside of incorporated areas, and shall be appointed for terms of three years. Vacancies for unexpired terms shall be for the remainder of the term and shall be filled in the same manner as the original appointment.

A township board member shall not serve as chairperson of the zoning board of appeals, and employees or contractors of the township may not serve as members of the board. A member of the board shall be disqualified from a vote in which the member has a conflict of interest. A member of the zoning board of appeals who is also a member of the planning commission or the township board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the township board. However, the member may consider and vote on other unrelated matters involving the same property.

The township board may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

A member of the zoning board of appeals may be removed by the township board pursuant to Section 601 of the Michigan Zoning Enabling Act (MCL 125.3601).

(Ord. No. 31.37, § 17, 4-19-2010)

#### Sec. 22.02. - Procedures.

- A. The board of zoning appeals shall adopt rules and regulations to govern its procedures. The board of zoning appeals shall appoint one of its members as chairperson. The concurring vote of a majority of the members of the board of zoning appeals shall be necessary to revise any order, requirement, decision or interpretation of the zoning administrator or to decide of an applicant any matter upon which they are required to pass under this ordinance or to effect any variation in this ordinance. The board of zoning appeals shall not conduct business unless a majority of the regular members of the board of zoning appeals are present.
- B. Meetings of the board of appeals shall be held at the call of the chairperson and at such other times as the board in its rules of procedure may specify. Minutes shall be kept of each meeting and the board shall record into the minutes all findings, conditions, facts and other relevant factors, including the vote of each member upon each question, or if absent or failing to vote indicating such fact, and all of its official actions. All meetings and records shall be open to the public. All minutes shall be filed in the office of the township clerk.
- C. The zoning board of appeals shall fix a reasonable time for a hearing and shall publish one notice of public hearing in a newspaper of general circulation within the township not less than 15 days before the date the application will be considered for approval, and shall provide notice by personal delivery or by deposit during normal business hours for delivery by the U.S. Postal Service or other public or private delivery service to all persons to whom property is assessed within 300 feet of the subject property, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located within the township. Notification need not be given to more than one occupant of a structure, except that, if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different person, 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. Such notice shall describe the nature of the request, identify the property that is the subject of the request, and, when the request relates to ten or fewer adjacent properties, shall include a listing of all street addresses within the property, if such addresses exist. The notice shall also state when and where the request will be considered, and indicate when and where written comments will be received concerning the request. If a request does not pertain to a specific property, notice need only be published in the newspaper and served on the person requesting the hearing as provided above.

(Ord. No. 31.37, § 18, 4-19-2010)

Sec. 22.03. - Duties and powers.

- A. The zoning board of appeals shall perform its duties and exercise its powers as provided by Act 110 of the Public Acts of 2006 (MCL 125.3100 et seq.), and as may be amended, so that the objectives of this ordinance shall be attained, the public health, safety and welfare secured, and substantial justice done. The zoning board of appeals shall hear and decide only those matters which it is specifically authorized to hear and decide as provided therein; administrative review interpretations and variances.
- B. The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this ordinance, but does have the power to act on those matters for which this ordinance provides an administrative review, interpretation, variance or exception.

(Ord. No. 31.37, § 19, 4-19-2010)

Sec. 22.04. - Administrative review.

- A. The board of zoning appeals shall hear and decide appeals from and review any order, requirements, decision or

determination of the zoning administrator.

- B. The board of zoning appeals shall have the power to:
- (1) Interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purpose of this ordinance.
  - (2) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the zoning administrator.
  - (3) Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
  - (4) Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in article XVII by an analysis of the specific needs.

Sec. 22.05. - Variances.

- A. The board of zoning appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship or practical difficulty.
- B. A variance shall not be granted by the zoning board of appeals unless and until the following conditions are met:
- (1) A written application for a variance is submitted demonstrating:
    - (a) That there are practical difficulties which stand in the way of carrying out the strict letter of the zoning ordinance, and there are special conditions and circumstances which exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures, or buildings in the same district.
    - (b) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance
    - (c) That the special conditions and circumstances necessitating the variance did not result from the actions of the applicant.
    - (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- C. Any nonconforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- D. The board of zoning appeals shall make findings that the requirements of this section have been met by the applicant.
- E. The board of zoning appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building or structure.
- F. The board of zoning appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.
- G. In granting any variance, the board of zoning appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.



- H. Under no circumstances shall the board of zoning appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in the district.
- I. In exercising the above-mentioned powers, the board of zoning appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination appealed from and may make such order requirements, decision, or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal is taken.
- J. Each variance granted under the provisions of this ordinance shall become null and void unless the occupancy of land or buildings, or the construction authorized by such variance has commenced within 180 days after the granting of such variance.

(Ord. No. 31.37, § 20, 4-19-2010)

#### Sec. 22.06. - Appeals.

- A. Appeals concerning interpretation and administration of this ordinance shall be made by filing a notice of appeal specifying the grounds thereof with the township clerk within a period of 30 days from the occurrence of the contested action. The clerk shall transmit to the board copies of all papers constituting the record upon which the action appealed from was taken.
- B. A fee shall be paid to the township clerk at the time of filing the notice of appeal and shall be deposited in the township's general fund. The appeal fee shall be established by the township board.
- C. Any party or parties may appear at the hearing in person or by agent or attorney.
- D. The board of zoning appeals shall decide upon all matters within a reasonable time. The decision of the board shall be in the form of a resolution containing a full record of its findings and determinations in each case.
- E. An appeal shall stay all proceedings in furtherance of the action appealed, unless the building inspector or zoning administrator certifies to the board, that a stay would in his/her opinion, cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order granted by the courts.

#### Sec. 22.07. - Duties on matters of appeal.

All questions concerning applications or provisions of this ordinance shall first be presented to the zoning administrator. Such questions shall be presented to the board of zoning appeals only on appeal from the decision of the zoning administrator. Recourse from decisions of the board of zoning appeals shall be to the Circuit Court of Clinton County. An appeal under this section shall be filed within 30 days after the zoning board of appeals issues its decision in writing, signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision. The court may affirm, reverse or modify the decision of the zoning board of appeals and may make other orders as justice requires.

(Ord. No. 31.37, § 21, 4-19-2010)

#### ARTICLE XXIII. - TOWNSHIP PLANNING COMMISSION

#### Sec. 23.01. - Membership, term of office, vacancy, removal and officers.

- A. *Appointment.* The Bath Charter Township planning commission shall consist of seven members who shall be

appointed by the township Supervisor, subject to approval of a majority of the members of the township board elected and serving. Members of the planning commission shall be representative of important segments of the community which exist at the time of appointment, such as agricultural, natural resources, recreation, education, public health, government, transportation, industry and commerce. Membership shall, to the extent practicable, be representative of the entire geography of the township. Members of the planning commission shall be qualified electors of the township, except as may be otherwise permitted by Section 15 of the Planning Enabling Act. One member of the township board shall be appointed to the Planning Commission as an *ex officio* member. The term of the *ex officio* member shall expire with his or her term of office on the township board. All other members shall be appointed for three year terms, and if a vacancy occurs the vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. In addition, a member shall hold office until his or her successor is appointed and existing members of the planning commission existing as of the date of the ordinance from which this article is derived shall continue for their individual terms of appointment.

- B. *Removal.* The township board may remove a member of a planning commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.
- C. *Term.* The planning commission shall elect a chairperson and secretary from its members and create and fill other officers as it deems appropriate. Officers of the planning commission existing as of the date hereof shall continue in office for the remainder of their term. The *ex officio* member of the planning commission is not eligible to serve as chairperson, and the term of each officer shall be one year, and said person shall be eligible for reelection to said office unless otherwise prohibited by the planning commission bylaws.

(Ord. No. 65, § 1, 6-20-2011)

Sec. 23.02. - Bylaws, record keeping and annual report.

The planning commission shall adopt bylaws relating to the transaction of planning commission business and proceedings, and shall create and maintain a public record of its resolutions, transactions, findings and determinations. An annual report shall be made to the township board concerning its proceedings, operations, activities and the status of planning activities, including recommendations regarding potential activities by the township board relating to planning and development. Planning commission records shall be made available pursuant to the Michigan Freedom of Information Act (MCL 15.231 *et seq.* ). Bylaws previously adopted by the Bath Charter Township Planning Commission shall continue in full force and effect until amended subsequent hereto.

(Ord. No. 65, § 2, 6-20-2011)

Sec. 23.03. - Meetings.

The planning commission by resolution shall determine the time and place of regular meetings (not less than four meetings annually) to be held throughout the year. Special meetings may be called by the chairperson or by two other members, unless the bylaws direct otherwise. Requests for a special meeting shall be made in writing to the planning commission secretary and, unless the bylaws provide otherwise, written notice of the special meeting shall be sent by the secretary to planning commission members by first class mail, or personally left at the members' home address not less than 48 hours before the meeting date and time. Further, all business of the planning commission shall be conducted at a public meet, subject to the requirements of the Michigan Open Meetings Act (MCL 15.261 *et seq.* ). Public notice of regular and special Planning commission meetings shall be given as provided in that Act.

(Ord. No. 65, § 3, 6-20-2011)

**Sec. 23.04. - Compensation; expense reimbursement.**

Compensation paid to planning commission members shall be pursuant to a resolution adopted from time to time by the township board. Reimbursable expenses to planning commission members shall be as provided by the policy of the municipality relating to such reimbursement to other municipal officials and staff, if any.

(Ord. No. 65, § 4, 6-20-2011)

**Sec. 23.05. - Duties.**

The planning commission shall perform the duties and functions required and allowed by the Michigan Planning Enabling Act and the Michigan Zoning Enabling Act, including adoption of and amendments to a master plan as defined by Section 3 of the Planning Enabling Act (MCL 125.3803); conducting public meetings, making recommendations and taking actions required in connection with zoning proceedings pursuant to the Michigan Zoning Enabling Act and the township zoning ordinance; approving construction, location of streets, squares, parks, playgrounds, public ways, grounds, open space, public buildings or structures within the municipality in accordance with the procedures specified in the Planning Enabling Act, Section 63 (MCL 135.3863); unless exempted by the township board, the planning commission shall prepare and amend a capital improvement program related to public improvements and structures. The capital improvement program shall be prepared showing the items required by Section 65 of the Planning Enabling Act (MCL 125.3865) and subject to its exemptions; the planning commission shall also review and make recommendations concerning proposed plats within the township. The planning commission may also make recommendations concerning land division rules, if said function has been reserved to another agency by ordinance.

(Ord. No. 65, § 5, 6-20-2011)

**Sec. 23.06. - Gifts and donations.**

Gifts and donations for furtherance of or in connection with the work activities and function of the planning commission shall be made to the township for said purpose. Such a gift or donation may be accepted or refused, in the discretion of the township board. A gift of money which is so accepted by the municipality shall be deposited with the treasurer of the municipality in a special non-reverting planning commission fund for expenditures by the planning commission for the purpose designated by the donor. The municipal treasurer shall draw a warrant against the special non-reverting fund only upon receipt of a voucher signed by the chairperson and secretary of the planning commission and an order drawn by the clerk of the township for that purpose. Expenditures of the planning commission exclusive of gifts and grants shall be within the amounts appropriated by the township board for the performance of the planning commission's functions.

(Ord. No. 65, § 6, 6-20-2011)

**ARTICLE XXIV. - CHANGES AND AMENDMENTS****Sec. 24.01. - Intent.**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of Bath Charter 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 in the township generally, to rezone an area, extend the boundary of an existing district, or to change the regulations and restrictions thereof.

Sec. 24.02. - Amendment initiation.

Only the township board may amend this ordinance. Proposals for amendments or changes may be initiated by the township board on its own motion, by the planning commission, or by petition of one or more owners of property to be affected by the proposed amendment.

Sec. 24.03. - Summary of amendment process.

- A. Petitioner submits application and fee.
- B. Clerk transmits application to planning commission, sets hearing date, and publishes notices of hearing as prescribed in section 24.04, below.
- C. Planning commission holds hearing, and makes a decision, a summary of the comments received at the public hearing along with the decision are then forwarded to the township board.
- D. The township board either enacts or rejects proposed changes as an ordinance amendment or, if the township board considers amendments, changes, additions or departures advisable to the proposed ordinance provision, it shall refer the same to the planning commission for a report thereon within a time specified by the township board. After receiving the report, the township board shall grant a hearing on a proposed ordinance provision to a property owner who, by certified mail addressed to the clerk of the township board, requests a hearing, and the township board shall request the planning commission to attend the hearing. Notice of the hearing shall be given to the requesting interested property owner by personal delivery or by deposit during normal business hours with the United States Postal Service or other public or private delivery service at least 15 days prior to the date the request will be considered. Thereafter, at a regular or special meeting called for that purpose, the township board may adopt by a majority vote of its membership, pursuant to the Michigan Zoning Enabling Act, a zoning ordinance or amendments to the zoning ordinance, with or without amendments that had previously been considered by the planning commission, or at a hearing and shall thereafter cause the ordinance or amendment thereto to be published as required by law.

(Ord. No. 31.37, § 23, 4-19-2010)

Sec. 24.04. - Procedures.

The procedure for making amendments to this ordinance shall be in accordance with Act 110 of the Public Acts of 2006 (MCL 125.3101 et seq.), and as said statute may be amended from time to time.

- A. A petition, together with a completed and signed application and fees, shall be filed with the township clerk. The clerk shall review the application as to form and, when it is approved, transmit same to the township planning commission for review and report. The application must be received by the township clerk not less than 45 days prior to a regularly scheduled meeting of the township planning commission. The clerk shall, at the same time, establish a date for a public hearing before the planning commission relating to a petition for amendment to the zoning ordinance or to the zoning district map. The clerk shall publish a notice of the hearing in a newspaper of general circulation in the township not less than 15 days before the date of the hearing. The clerk shall also give notice of the public hearing to the owner of the property that is the subject of the request, and also to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request, and to the occupants of all structures within 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 occupant of a structure, except that, if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains

more than four dwelling units or 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. An affidavit of service/publication shall be filed with the planning commission prior to the hearing. The notice shall be made at least 15 days prior to the hearing. Requirements of the written notice to property owners or occupants shall not apply to mere textual revisions to the zoning ordinance or comprehensive revisions to the zoning ordinance. Public hearing requirements shall also apply to amendments initiated by the township board or the township planning commission.

B. The clerk shall also give notice of the hearing in the following manner:

- (1) By first class mail at least 15 days in advance of hearing to each electric, gas pipeline, public utility company, telecommunications provider and each railroad within the district or zone affected, and an airport manager that registers its name and mailing address with the clerk for purposes of receiving such notice.
- (2) A notice under this section shall do all of the following:
  - (a) Describe the nature of the request;
  - (b) Indicate specific property that is the subject of the request and, if the request is for ten or fewer adjacent parcels, include a listing of all existing street addresses within the property. The street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;
  - (c) State when and where the request will be considered;
  - (d) Indicate when and where written comments will be received concerning the request.

(Ord. No. 31.37, § 24, 4-19-2010)

Sec. 24.05. - Application information.

The petitioner shall submit a detailed description of the petition to the township clerk. When the petition involves a change in the zoning map, the petitioner shall submit the following information:

- A. A legal description of the property.
- B. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- C. The name and address of the petitioner.
- D. The petitioner's interest in the property, and if the petitioner is not the owner, the name and address of the owner.
- E. Date of filing with the township clerk.
- F. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- G. The desired change and reasons for such change.
- H. In the event the landowner or authorized entity acting on behalf of the landowner desires or intends to propose a particular land use or development as a condition to rezoning pursuant to PA 2004 No. 577 (MCL 125.286i), the owner shall:
  - (1) Submit a written notice of intent to make such an offer to the zoning administrator.
  - (2) The notice of intent required herein shall be in writing and shall be accompanied by a proposed covenant to run with the land regarding the proposed use or a proposed agreement setting forth the development conditions relating to said rezoning request.
  - (3) Prior to final action by the township board, all proposals for conditional zoning shall be reviewed by the

planning commission and addressed in the planning commission's recommendation on the underlying rezoning request as required by section 24.05A of this article. In the consideration of such a proposal, the planning commission and township board may request additional information and data as they may deem appropriate.

(Ord. No. 31.34 § 1, 11-21-2005; Ord. No. 31.37, § 24, 4-19-2010)

Sec. 24.06. - Fact finding.

- A. In reviewing any petition for a zoning amendment, the planning commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the township board, within 60 days of the filing date of the petition.
- B. The facts to be considered by the planning commission shall include, but not be limited to, the following:
  - (1) Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
  - (2) The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.
  - (3) The ability of the township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
  - (4) Are there any significant and negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting permitted structures were built; including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources.
  - (5) Effect of approval of the petition on adopted development policies of Bath Charter Township and other government units.
  - (6) All findings of fact shall be made a part of the public records of the meetings of the planning commission and the township board. An amendment shall not be approved unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort and convenience of the citizens of Bath Charter Township, or of other civil divisions where applicable.

Sec. 24.07. - Comprehensive review of ordinance.

The planning commission, at intervals of not less than three years, shall examine the provisions of this ordinance and shall submit a report to the township board recommending changes, if any, deemed desirable in the interests of public health, safety and welfare.

ARTICLE XXV. - INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL, PENALTIES, AND EFFECTIVE DATE

Sec. 25.01. - Interpretation and conflict.

In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrevoked provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law

relating to the use of building or land, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings, structures, land, or upon the courtyard or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this ordinance shall control.

**State Law reference**— Conflict, between zoning and other ordinances, MCL 125.298.

Sec. 25.02. - Severance clause.

Sections of this ordinance shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid.

Further, if any court shall declare invalid the application of any provision of the ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use building or structure not specifically included in said ruling.

Sec. 25.03. - Vested right.

Nothing in this ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

Sec. 25.04. - Repeal.

All ordinances and amendments thereto enacted and/or adopted by the Charter Township of Bath and/or the Township Board of the Charter Township of Bath by virtue of Act 184 of the Public Acts of 1943 (MCL 125.271 et seq.), as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed as of the effective date of this ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

Sec. 25.05. - Penalties and remedies.

- A. *Nuisances per se.* Any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.
- B. *Criminal violations.* Violation of a provision of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day a violation continues shall be considered a separate offense.
- C. *Municipal Civil Infractions.* Persons, firms, corporations or entities in violation of a provision of this Ordinance, including violations of conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, may be subject to and found responsible for a municipal civil infraction. The schedule of forfeitures for any municipal civil infraction shall be established by resolution of the Township Board, not to exceed five hundred dollars (\$500.00) plus court costs, attorney fees and abatement costs of each violation,

together with all other remedies pursuant to MCL 600.8701, et seq. Each day a violation continues shall be deemed a separate municipal civil infraction. A schedule of forfeitures for violation of this Ordinance shall be available at the municipal civil infractions bureau.

- D. *Remedies.* In addition to any other remedies, the township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence, or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

(Ord. No. 31.50, § 2, 8-3-2015)

**State Law reference—** Zoning violations, MCL 125.294.

Sec. 25.06. - Effective date.

This ordinance shall take effect following adoption and upon publication in accordance with the provisions and procedures of Act 359 of the Public Acts of 1947 (MCL 42.1 et seq.), as amended.

Made and passed by the Township Board of Bath Charter Township Clinton County, Michigan on this 21st day of August, 1989.