

CHAPTER 150: ZONING

Section

General Provisions

- 150.001 Purpose
- 150.002 Short title
- 150.003 Construction of language
- 150.004 Definitions

Zoning Districts and Maps

- 150.015 Establishment of districts
- 150.016 Zoning district maps
- 150.017 Replacement of official zoning map
- 150.018 Application of district regulations
- 150.019 Scope of provisions
- 150.020 Conflicting regulations
- 150.021 Exemptions
- 150.022 District R-1: Residential one
- 150.023 District RR-1: Rural Residential One (one acre)
- 150.024 District RR-2: Rural Residential Two (two and one-half acres)
- 150.025 District RR-3: Rural Residential Three (five acres)
- 150.026 District SP: Scenic Preservation
- 150.027 District RP: Resource Production
- 150.028 District C-1: General Retail
- 150.029 District C-2: Commercial/Light Industrial
- 150.030 District I: Industrial
- 150.031 District AOZ: Airport Overlay District

General Regulations

- 150.045 Height, bulk and placement regulations
- 150.046 Depth to width ratio
- 150.047 Minimum building floor area
- 150.048 Accessory buildings and uses
- 150.049 Home occupations
- 150.050 One principal structure or use per lot
- 150.051 Variance requirements for lots of record
- 150.052 Use of yard or open space
- 150.053 Off-street parking requirements
- 150.054 Required planting screens
- 150.055 Planting screen specifications
- 150.056 Parking lot planting
- 150.057 Time of completion
- 150.058 Waterfront setback
- 150.059 Fence regulations
- 150.060 Open space preservation

- 150.061 Fees in escrow for professional reviews
- 150.062 Condominium developments
- 150.063 Airport zoning requirements
- 150.064 Exterior lighting
- 150.065 Hobby farms

Signs

- 150.080 Intent
- 150.081 Residential district regulations for signs
- 150.082 General Retail and Commercial/Light Industrial District sign regulations
- 150.083 Industrial District sign regulations
- 150.084 Conditional use sign regulations
- 150.085 Temporary signs
- 150.086 Construction signs
- 150.087 Exempt signs
- 150.088 Lighting of signs
- 150.089 Animated/LED signs
- 150.090 Maintenance of signs
- 150.091 Nonconforming signs
- 150.092 Prohibited signs

Site Plan Review

- 150.105 Intent
- 150.106 Site plan required
- 150.107 Site plans for single- and two-family dwellings, and residential accessory uses and structures for recreational structures
- 150.108 Site plans for commercial, industrial mobile/manufactured home parks, and multiple-family development (all other development)
- 150.109 Review procedures
- 150.110 Standards for site plan approval
- 150.111 Requirements for private roads
- 150.112 Minimum design standards for private roads
- 150.113 Naming of public roads

Conditional Use Permits

- 150.125 Intent
- 150.126 Application procedure
- 150.127 Review and findings
- 150.128 General standards
- 150.129 Conditions and safeguards
- 150.130 Cemeteries
- 150.131 Religious organizations, including churches (other places of religious activity; synagogues, mosques, temples, and the like)
- 150.132 Commercial recreational facilities
- 150.133 Wireless communication facilities and structures
- 150.134 Disposal areas and landfills and holding areas for inert materials

- 150.135 Outdoor wood burning boilers and appliances
- 150.136 Fabric structures
- 150.137 Sexually oriented businesses
- 150.138 General hospitals
- 150.139 Golf courses
- 150.140 Kennels and veterinary clinics
- 150.140.1 Large scale recreation uses
- 150.140.2 Child care center (day care center)
- 150.140.3 Nursing homes, convalescent or rest homes, homes for the aged, indigent or handicapped and orphanages
- 150.140.4 Outdoor theaters
- 150.140.5 Public and private colleges and universities
- 150.140.6 Racetracks, including midget auto, motorcycle, karting, snowmobile and other motor vehicles tracks, and similar facilities
- 150.140.7 Outdoor business sales and storage, including motor vehicles sales, manufactured home sales, recreational vehicles, travel trailers and boats including both rental and sales
- 150.140.8 Utility and public service facilities
- 150.140.9 Bed and breakfast establishments
- 150.140.10 Group (child) day care home
- 150.140.11 Private use landing field
- 150.140.12 Fast food, drive-in, drive-through, and carry-out restaurants
- 150.140.13 Motor vehicle repair and service facilities
- 150.140.14 Motor vehicle washing, conveyor or non-conveyor types
- 150.140.15 Utility grid wind energy systems (wind farms)
- 150.140.16 Mineral extraction

Planned Unit Development

- 150.145 Intent
- 150.146 Modification Powers
- 150.147 Application procedure
- 150.148 PUD design standards and objectives

Nonconforming Uses and Structures

- 150.160 Intent
- 150.161 Class A nonconforming uses and structures
- 150.162 Procedure for obtaining Class A designation
- 150.163 Provisions for Class A nonconforming uses and structures
- 150.164 Regulations pertaining to Class A nonconforming uses and structures
- 150.165 Class B nonconforming uses and structures
- 150.166 Nonconforming lots
- 150.167 General standards

Administration and Enforcement

- 150.180 Administration
- 150.181 Administrative standards and procedures
- 150.182 Zoning Administrator

- 150.183 Duties of Zoning Administrator
- 150.184 Zoning compliance permit
- 150.185 Enforcement and violation
- 150.186 Special zoning orders book and map
- 150.187 Fees

Zoning Board of Appeals

- 150.200 Creation and membership
- 150.201 Procedures
- 150.202 Duties and powers
- 150.203 Administrative review
- 150.204 Variances
- 150.205 Appeals
- 150.206 Duties on matters of appeal

Township Planning Commission: Planning and Zoning Authority

- 150.220 Designation
- 150.221 Changes and amendments

Access Management

- 150.235 Findings and intent
- 150.236 Applicability
- 150.237 One access per parcel
- 150.238 Applications
- 150.239 Review and approval process
- 150.240 Record of application
- 150.241 Period of approval
- 150.242 Renewal
- 150.243 Re-issuance requires new application
- 150.244 Maintenance
- 150.245 Change of use also may require new driveway
- 150.246 Changes require new application
- 150.247 Closing of driveways
- 150.248 Inspection
- 150.249 Performance bond
- 150.250 Lot width and setbacks
- 150.251 Access management standards
- 150.252 Nonconforming driveways
- 150.253 Waivers and variances of requirements in §150.251
- 150.254 Traffic impact study

Miscellaneous Provisions

- 150.270 Interpretation and conflict
- 150.271 Severability
- 150.272 Vested right
- 150.273 Effective date

Amendments and Rezoning

- 150.290 Authorization
- 150.291 Rezoning
- 150.292 Initiation of amendments
- 150.293 General procedure
- 150.294 Conditional rezoning
- 150.295 Procedure for rezoning petitions to permit the extraction of natural resources

- 150.999 Penalty

GENERAL PROVISIONS

§ 150.001 PURPOSE.

(A) A chapter to establish zoning districts and regulations governing the development and use of land within the Charter Township of Breitung, in accordance with the provisions of Act 110 of the Public Acts of 2006, as amended; to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits, fees, penalties and other administrative provisions to enforce this chapter; and to provide for regulations regarding conflicts with other ordinances or regulations.

(B) Pursuant to the authority conferred by the Public Acts of the State of Michigan, this chapter 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 the Township of Breitung 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 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) 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;
- (8) 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;
- (9) Enhancing social and economic stability in the township;
- (10) Enhancing the aesthetic desirability of the environment throughout the township; and
- (11) Conserving the expenditure of funds for public improvements and services to conform to the most advantageous uses of land.

(Ord. § 101, passed 9-14-2009)

§ 150.002 SHORT TITLE.

This chapter shall be known and may be cited as the Zoning Ordinance of the Charter Township of Breitung, Dickinson County, Michigan.

(Ord. § 102, passed 9-14-2009)

§ 150.003 CONSTRUCTION OF LANGUAGE.

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

(A) 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 have a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

(B) The particular shall control the general.

(C) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(D) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(E) 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.

(F) The word "building" includes the word "structure," and the word "dwelling" includes the word "residence." A "building" or "dwelling" includes any part thereof.

(G) The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied.

(H) The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.

(I) The word "lot" includes the words "plot" and "parcel."

(J) 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:

(1) "And" indicates that all connected items, conditions, provisions, or events shall apply.

(2) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

(3) "Either...Or" indicates that the connected items, conditions, provisions, or events shall apply single but not in combination.

(K) 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.

(L) 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.

(M) In computing a period of days, if the first day or 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.

(Ord. § 201, passed 9-14-2009; Ord. § 201, passed 11-9-2015)

§ 150.004 DEFINITIONS.

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

ACCESS. A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.

ACCESS MANAGEMENT. The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.

ACCESS POINT.

(1) The connection of a driveway at the right-of-way line to a road.

(2) A new road, driveway, shared access or service drive.

ACCESSORY BUILDING. A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

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

AGRICULTURE. Any land or building use for pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry.

AIRFIELD. See **PRIVATE USE LANDING FIELD.**

AIRPORT. An area of land that is used for or incidental to the landing, take off, and parking of aircraft, including buildings and facilities. For the purposes of this definition airport related buildings and facilities may include control towers, passenger terminal buildings, fixed base operators, hangars, rental car facilities, air cargo facilities, visual and electronic navigational aids, meteorological equipment and stations, airport maintenance facilities and buildings, automobile parking for employees and passengers, viewing areas and contiguous reserve land held for such uses and purposes.

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."

ANEMOMETER TOWER. An anemometer tower means a freestanding tower (or other structural means of mounting)

containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is a temporary accessory land use to either a proposed on-site use wind energy system (windmill) or a utility grid wind energy system (wind farm).

APARTMENT. A dwelling unit in a "dwelling, multiple family," as defined herein.

AUTOMOTIVE REPAIR GARAGE. A premise 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 undercoating of automobiles.

BASEMENT. That portion of a building, which is partially 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.

BED AND BREAKFAST. An establishment located in a building originally constructed as a private residence, in which an innkeeper resides and offers rooms for rent on a short-term basis consisting of 14 consecutive nights or less, and in which meals may be offered to guests renting these rooms.

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.

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.

BLUFF LINE. The edge or crest of the elevated segment of the shoreline above the beach or beach terrace which may be subjected to wave attack, and normally presents a precipitous front and inclines steeply on the water side. (Dunal terraces that accrete and erode depending on water levels are not considered bluff lines.)

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.

BUFFER YARD. 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.

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 AREA. The area (square footage) included within surrounding exterior walls (or firewalls) exclusive of vents, elevator or other shafts, courts, or courtyards. Areas of the building not provided with surrounding walls shall be included in the building area if included within the horizontal projection of the floor above.

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; 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 walls.

BUILDING LINE. A line parallel to the front lot line, which for purposes of this chapter, a minimum building line is the same as the minimum required front setback line.

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

CAMPGROUND. Any area that is occupied or intended or designed or improved for occupancy by transients using recreational vehicles, motor homes, tents, or mobile trailers for dwelling, lodging, or sleeping purposes and is held out as such to the public. Campsite does not include a manufactured housing community.

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

CARETAKER RESIDENCE. A single dwelling unit occupied by an employee responsible for the operation at the commercial facility.

CERTIFICATE OF ZONING COMPLIANCE. A certificate issued by the Zoning Administrator to a party intending to initiate any work or change any use of property in the township.

CHILD CARE CENTER (Also known as a **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 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 centers are licensed by the State of Michigan under Public Act 116 of 1973, as amended. **CHILD CARE CENTER** or **DAY CARE CENTER** does not include:

(1) A Sunday School, a vacation bible school, or a religious instruction class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during any 12 month period.

(2) A facility operated by a religious organization where children are cared for not more than three hours while parents or guardians attend religious worship services.

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.

CLINIC. A place where four or more doctors or dentists furnish medical or dental care to persons on an outpatient basis.

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.

CO-LOCATION. The location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall numbers of structures required to support wireless communication antennas within the township.

COMPREHENSIVE 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. May also be referred to as a **MASTER PLAN**.

CONDITIONAL USE PERMIT. A permit issued by the Planning Commission 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 chapter which possess unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the township's inhabitants.

CONDOMINIUM. New sub-definitions there under:

(1) **COMMON ELEMENTS.** The portions of the condominium other than the condominium units.

(2) **CONDOMINIUM ACT.** Public Act No. 59 of 1978 (M.C.L.A. §§ 559.101 *et seq.*).

(3) **CONDOMINIUM SUBDIVISION.** A subdivision as defined in § 150.062.

(4) **CONDOMINIUM SUBDIVISION PLAN.** Site, survey, and utility plans, floor plans, and sections, as appropriate, showing the existing and proposed structures and improvements, including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume for each unit composed of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common elements.

(5) **CONDOMINIUM UNIT.** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

(6) **CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the Condominium Act.

(7) **CONVERTIBLE AREA.** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this chapter and the Condominium Act.

(8) **EXPANDABLE CONDOMINIUM.** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with the condominium regulations of this chapter and the Condominium Act, Public Act No. 59 of 1978 (M.C.L.A. §§ 559.101 *et seq.*).

(9) **MASTER DEED.** The condominium document recording the condominium project as approved by the Zoning Administrator to which are attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

(10) **GENERAL COMMON ELEMENTS.** The common elements other than the limited common elements.

(11) **LIMITED COMMON ELEMENTS.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

CONDOMINIUM, SITE. For the purposes of this chapter, a site condominium is a subdivision of land created and recorded pursuant to the Condominium Act (P.A. 59 of 1978, M.C.L.A. §§ 559.101 *et seq.*, as amended), and the provisions of this chapter, containing two or more units of land designed and intended for separate ownership and use, and which may or may not contain general and limited common elements. Except as otherwise specifically provided, a condominium unit is not a "lot" or "parcel" as those terms are used in this chapter.

CONTIGUOUS PROPERTY. Any portion of an individual's lot or property which can be identified as one parcel, including those properties in the same ownership which would otherwise be touching except for a public right-of-way or easement running through them.

DECK. An open platform with or without railings, constructed of wood or other material which is not screened or enclosed that is also either attached, part of, or adjacent to and with direct access to or from a building.

DENSITY. The number of dwelling units situated on developable land expressed on a per acre basis. Maximum permitted density is the number of dwelling units that may be permitted per acre as determined by consideration of size, setback and other requirements in this chapter affecting the number, size and placement of dwelling units on developable 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.

DRIVEWAY.

(1) A passage providing access to an individual's property along which vehicles may be driven, comprised of suitable base as determined by the Zoning Administrator or his or her designated agency or person. If these driveways cross an existing roadside ditch, the property owner shall obtain a permit from the Dickinson County Road Commission to install a culvert (minimum length is 24 feet) of sufficient size to carry, unimpeded, the flow of water in the ditch.

(2) Any entrance or exit used by vehicular traffic to or from land or buildings abutting a road.

DRIVEWAY OFFSET. The distance between the centerline of two driveways on opposite sides of an undivided roadway.

DRIVEWAY, SHARED. A driveway connecting two or more contiguous properties to the public road system.

DWELLING, MULTIPLE FAMILY. A structure containing more than two dwelling units each designed for residential occupancy by one family, including condominiums.

DWELLING, SINGLE-FAMILY. A structure, including a mobile home, containing not more than one dwelling unit designed for residential use.

DWELLING, TWO-FAMILY. A building containing two separate dwelling units designed for residential use and conforming in all other respect to the standards set forth in the definition of single-family dwelling.

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.

EASEMENT. The legal right to use property owned by another for specific purposes or to gain access to another property. The easement may be for a portion or all of the property and can be deemed as under, on, or above said property.

EARTH SHELTERED HOME. A building that is partially or entirely below grade and is designed 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 designed bedroom.

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

ESSENTIAL SERVICES. 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, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories which are necessary for the furnishing of adequate service by 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.

FAMILY. An individual or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children, or a group not to exceed three persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit with single cooking facilities. Every additional group of three or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this chapter. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

FAMILY (CHILD) DAY CARE HOME (LICENSED). A private home (dwelling) in which one but fewer than seven children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. Family day care homes are licensed by the State of Michigan under Public Act 116 of 1973, as amended.

FARM. Any parcel of land containing at least five acres, which is used for agricultural purposes. It includes the necessary farm structures and the storage of equipment used. It excludes the raising of fur bearing animals, commercial dog kennels

and riding academies.

FEEDLOT. An animal feeding operation is a concentrated animal feeding operation for the purposes of § 122.23 (Under 40 C.F.R. 122, Appendix B) and for the purpose of defining a **FEEDLOT** under this zoning chapter, if either of the following criteria are met.

- (1) More than the numbers of animals specified in any of the following categories are confined:
 - (a) One thousand (1,000) slaughter and feeder cattle;
 - (b) Seven hundred (700) mature dairy cattle (whether milked or dry cows);
 - (c) Two thousand five hundred (2,500) swine each weighing over 25 kilograms (approx. 55 lbs.);
 - (d) Five hundred (500) horses;
 - (e) Ten thousand (10,000) sheep or lambs;
 - (f) Fifty-five thousand (55,000) turkeys;
 - (g) One hundred thousand (100,000) laying hens or broilers (if the facility has continuous overflow watering);
 - (h) Thirty thousand (30,000) laying hens or broilers (if the facility has a liquid manure system);
 - (i) Five thousand (5,000) ducks; or
 - (j) One thousand (1,000) animal units (all other animal types not in divisions (1) and (2) of this definition are to be calculated as 1,000 pounds live weight equals one animal unit) as a result of any combination; or
 - (k) Notwithstanding the above schedule, the following schedule shall apply in cases where one of the following conditions are met:
 1. Pollutants are discharged into navigable waters through a manmade ditch, flushing system or other similar manmade device (the term manmade ditch or device means constructed by man and used for the purpose of transporting wastes); or
 2. Pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility; or
 3. Pollutants otherwise come into direct contact with the animals confined in the operation.

- (2) More than the following number and types of animals are confined:
 - (a) Three hundred (300) slaughter or feeder cattle;
 - (b) Two hundred (200) mature dairy cattle (whether milked or dry cows);
 - (c) Seven hundred fifty (750) swine each weighing over 25 kilograms (approx. 55 pounds);
 - (d) One hundred fifty (150) horses;
 - (e) Three thousand (3,000) sheep or lambs;
 - (f) Sixteen thousand, five hundred (16,500) turkeys;
 - (g) Thirty thousand (30,000) laying hens or broilers (if the facility has continuous overflow watering);
 - (h) Nine hundred (9,000) laying hens or broilers (if the facility has a liquid manure handling system);
 - (i) One thousand five hundred (1,500) ducks; or
 - (j) Three hundred (300) animal units (all other animal types not in divisions (1) and (2) of this definition are to be calculated as 1,000 pounds live weight equals one animal unit) as a result of any combination;

(k) Provided, however, that no animal feeding operation is a concentrated animal feeding operation (feedlot) as defined above under division (2) of this definition, if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.

(3) The term animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

FENCE. A linear structure erected to divide or enclose yard areas.

- (1) **FENCE - PERIMETER.** A fence located on or near a property line to prohibit or impede access to property.
- (2) **FENCE - VISUAL SCREEN.** A fence, wall, hedge or living fence consisting of such materials as to obscure the vision beyond the fence line by greater than 50%. Visual screens, on or near the property line, are perimeter fences.

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 chapter requirements.

FLOODPLAIN. Those areas of land adjacent to the rivers, and other water courses of the township, subject to seasonal or periodic flooding. More particular definitions of floodplain are the 100 year or 500 year floodplains as defined and mapped, delineating the respective flood elevations and geographic areas of flooding under the U.S. Federal Emergency Management Agency's national flood insurance program.

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.

FLOOR AREA RATIO. An intensity measurement denoted as a ratio, derived by dividing the total floor area of a building by the property area.

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 patron, clients or customers. Such floor area which is used or intended to be used 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 heated living areas of the building, measured from the interior faces of the exterior walls, including private garages.

FOSTER FAMILY HOME (PRIVATE HOME). A private residence (dwelling) in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, or a family day care home, as follows:

(1) **FOSTER FAMILY HOME** is a private home (dwelling) in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the Adoption Code (M.C.L.A. §§ 710.21 through 710.70) are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(2) **FOSTER FAMILY GROUP HOME** means a private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood, marriage, or who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the Adoption Code (M.C.L.A. §§ 710.21 through 710.70) are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

FREE-STANDING TOWER. A trussed (microwave tower) or single pole (cell phone tower) constructed of lattice steel or aluminum which is supported by a concrete base and/or guy wires extending at angles from the structure to ground anchors.

FRONTAGE ROAD OR FRONT SERVICE DRIVE. A local street/road or private road typically located in front of principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

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.

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.

GREENHOUSE, COMMERCIAL. A building used for the cultivation and exhibition of plants under controlled conditions for commercial sale.

GROUP (CHILD) DAY CARE HOME. A private home (dwelling) 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 that gives care to an unrelated minor child for more than four weeks during a calendar year. Group day care homes are licensed by the State of Michigan under Public Act 116 of 1973, as amended.

HOBBY FARM. See § 150.065.

HOME OCCUPATION. Home occupation means a use or occupation conducted on the premises either within the main residential dwelling or an accessory building which is clearly incidental and secondary to residential occupancy and does not change the character thereof and meets the standards set out in §§ 150.049 and 150.128.

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.

JUNK. For the purpose of this chapter, the term **JUNK** shall mean an inoperable motor vehicle, machinery, appliances, products, or merchandise with parts missing or scrap metals, building debris, or other scrap materials that are damaged or deteriorated.

JUNKYARD. 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 condition, machinery or parts thereof.

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.

LANDSCAPING. The treatment of the ground surface with live, organic, or synthetic materials such as, but not limited to, grass, ground cover, crushed stone, trees, shrubs, vines and other growing or synthetic horticultural material. Structural features such as fountains, shadow pools, statues, garden walls, pathways, benches and the like shall also be considered elements of landscaping, but such structural features alone shall not meet the spirit and intent of landscaping requirements.

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

LODGE. A single building or facility that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of guests with or without sleeping facilities.

LOT. Land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces of yards as are required under this chapter and having its principal frontage upon a street.

LOT AREA. The total horizontal area within the lot lines of a lot.

LOT, CORNER. A lot that 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 sidelines of the lot.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINE(S). Any of the lines bounding a lot as defined herein.

(1) **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 both lines 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.

(2) **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.

(3) **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, Dickinson 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, Dickinson County, Michigan, prior to the adoption of this chapter.

LOT, THROUGH. A double frontage lot, not a corner lot, having a street for both 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.

MAJOR THOROUGHFARE. An arterial street that is intended to serve as a large volume traffic-way for both the immediate area and the region beyond.

MANUFACTURED HOME related definitions.

(1) **MANUFACTURED HOME.** A dwelling unit, which is designed for long-term residential occupancy and is wholly or largely fabricated at an off-site location.

(2) **MANUFACTURED HOME CONDOMINIUM PROJECTS.** A parcel of land under joint ownership, which has been planned and improved for the placement of manufactured for non-transient use, upon individual, separate condominium unit

envelopes.

(3) **MANUFACTURED HOME LOT OR SITE.** A parcel of land for the placement of a single manufactured home and exclusive use of its occupants within a licensed manufactured home community, a condominium project or subdivision project or development.

(4) **MANUFACTURED HOME STAND.** That part of an individual lot, which has been reserved for the placement of the manufactured home, appurtenant structures or additions.

(5) **MANUFACTURED HOME SUBDIVISION.** A parcel of land under single ownership, which has been planned and improved for the placement of manufactured homes for non-transient use on individual lots and for the purpose of selling the lots.

(6) **MANUFACTURED HOUSING.** A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling unit when connected to required utilities, and the plumbing, heating air/conditioning and electrical systems contained within the structure.

(7) **MANUFACTURED HOUSING COMMUNITY.** A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual non-recreational basis and which are offered to the public for that purpose. A recreational vehicle park or campground is not a manufactured home community.

(8) **MANUFACTURED HOUSING COMMUNITY LICENSE.** A written license issued by the Manufactured Housing Commission allowing a person to operate and maintain a manufactured housing community under the provisions of Michigan Public Acts 96 of 1987, as amended, and this chapter and regulations issued hereunder.

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

MEMBRANE STORAGE STRUCTURE. A structure consisting of a frame that is covered with a plastic, fabric, canvas, aluminum or similar non-permanent material, which is used to provide storage for vehicles, boats, recreational vehicles or other personal property. The term shall also apply to structures commonly known as hoop houses, canopy covered carports and tent garages but shall not apply to boat lifts and canopies that are placed in public waters and temporary tents or canopies used for special events such as weddings or graduations.

MINI-STORAGE-WAREHOUSE. A building designed and built for retail rental of space for the storage of various types of goods, products, household items, automobiles, boats, and the like. This does not include the storage of hazardous materials including chemicals.

MODULAR (PRE-MANUFACTURED) HOUSING UNIT. A dwelling unit constructed solely within a factory, as a single unit, or in various sized modulares or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit or multiple-family unit, and meeting all codes and regulations applicable to conventional single-family home or multiple family unit construction.

MOTEL. A series of attached or detached rental unit 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.

MOTOR HOME. A self-propelled, vehicle licensed to be operated on public roads, which vehicle is built upon a chassis (or equivalent), and is intended for recreation activities and only temporary occupancy.

NIGHTCLUB. A commercial establishment dispensing alcoholic beverages for consumption on the premises and which dancing and musical entertainment is provided.

NONCONFORMING BUILDING (NONCONFORMING STRUCTURE). A building or structure (or portion thereof) lawfully existing at the time of adoption of this chapter or a subsequent amendment thereto, that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the zoning district in which it is located.

NONCONFORMING LOT. A lot (or parcel) which exists as a legal lot of record and which existed as a legal lot of record at the effective date of this chapter (or an amendment which bears on a lot of record), which lot does not conform to the lot requirements of the district in which it is located.

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 chapter or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.

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:

- (1) Noise;
- (2) Dust;
- (3) Smoke;
- (4) Odor;

- (5) Glare;
- (6) Fumes;
- (7) Flashes;
- (8) Vibration;
- (9) Objectionable effluent;
- (10) Noise of a congregation of people, particularly at night;
- (11) Passing traffic; or
- (12) 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, 2d 339, p. 197; *Gilbert v Sabin*, 76 Mich. App. 137, 142 June (1977).)

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 §150.045, and which shall be calculated using the property 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 chapter.

OUTDOOR WOOD FURNACE. A wood-fired boiler, stove or furnace that is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system.

OVERLAY ZONE OR OVERLAY DISTRICT. A zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zone.

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.

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 that 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.

PLANNING COMMISSION. The Township Planning Commission of the Township of Breitung.

PORCH. A roofed open area, which may be screened and is usually attached to, or part of, and with direct access to or from a building.

PRINCIPAL USE. The main use to which the premises are devoted and the principal use for which the premises exist.

PRIVATE ROAD (TOWNSHIP APPROVED). A privately owned and maintained road constructed on a privately maintained easement serving four or more parcels of land or residential building sites.

PRIVATE USE LANDING FIELD. Any location, either on land or water, which shall be used for landing or take-off of aircraft with safety, solely for the use of the owner of the property, and which is not equipped with commercial facilities for the shelter, supply or repair of aircraft.

PUBLIC UTILITIES. 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, television, telegraph, transportation or water via the public road right-of-ways under the jurisdiction of the township.

REAR SERVICE DRIVE. A local street/road or private road typically located behind principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

RECREATIONAL STRUCTURE. A cabin, cottage, camp, hunting camp, mobile home or other similar structure used intermittently for recreational or vacation purposes and which is not a permanent place of domicile or residency.

RESORT. A building or series of buildings under common ownership that provides interrelated visitor and vacation amenities and are intended to serve the community and the travel needs through the area. Typical uses include but are not limited to: overnight accommodations, meeting rooms, convention and banquet facilities, administrative facilities, maintenance facilities, resort operation facilities, and restaurant and retail uses which are compatible with such a development.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for consumption with a drive thru:

- (1) Within the restaurant building;
- (2) Within a motor vehicle parked on the premises; or
- (3) 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.

RESTAURANT, STANDARD. An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, without a drive thru and whose principal method of operation includes one or both of the following characteristics:

- (1) 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;
- (2) 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.

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 1978, as amended.

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.

SEASONAL DWELLING. A residential building, whether temporary or permanent and may include mobile homes constructed prior to the Department of Housing and Urban Development's Mobile Home Construction and Safety Standards, being 24 C.F.R. 3280. Where **SEASONAL DWELLING** is provided as a principal permitted or conditional use in this chapter, it is intended that governmental services including snow plowing, road construction or maintenance, utilities, school bus service, and other like services may not be customarily be provided to the geographic area in which such dwelling or use is located. Anyone building a residential building in a zone designated for "seasonal dwellings" shall be informed in writing by the building inspector or Zoning Administrator that the "seasonal dwelling located in an area where the above governmental services are not customarily provided, such services may not, therefore, be available to that building or use.

SETBACK. The minimum unoccupied distance between the lot line and the principal and accessory buildings, as required herein.

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 is between the front setback area to the rear setback area and between the principal and accessory buildings and the side lot line.

SEXUALLY ORIENTED BUSINESS. Any premise from which minors are excluded and in which the retail sale of book, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises; or as an adjunct to some other business activity, but which constitutes the primary or a major attraction to the premises.

SHOPPING CENTER. A group of stores and often restaurants and other businesses sharing a common parking lot.

SHOPPING MALL. A shopping center with stores and businesses facing an enclosed mall.

SIGHT DISTANCE. The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.

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.

SIGN - BILLBOARD/OFF PREMISE. An outdoor sign advertising services or products, activities, persons or events which were not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

SIGN - BUILDING. A sign which identifies or directs attention to a business which is permanently affixed to a building or structure.

SIGN - DIRECTIONAL. A sign limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way," "entrance" and "exit" but not used for advertising.

SIGN MONUMENT. A free-standing, self-supporting sign on a base, which is placed on or at ground level and not

attached to any building wall, fence or other structure.

SIGN - POLE OR PYLON. A sign supported by at least one upright pole, pylon or post which is secured to the ground and not the building.

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 chapter.

STABLE, COMMERCIAL. Any lot or premises wherein or whereon a horse or horses are maintained, harbored, kept, confined, raised, lodged, fed, or allowed to remain, for sale, public show, boarding, breeding, leasing, trading, training, riding, or some similar purpose, and for which remuneration (payment) is made. (A commercial stable is permitted under an Agricultural Production land use (a farm)).

STABLE, PRIVATE. Any lot or premises wherein or whereon a horse or horses are maintained, harbored, kept, confined, raised, lodged, fed, or allowed to remain, which are exclusively owned and used by a person(s) living at the lot or premises, not a commercial stable. (A private stable for up to two horses is permitted under the hobby farm land use, see § 150.065. A private stable for three or more horses requires ten or more acres and is permitted under an Agricultural Production land use (a farm)).

STATE LICENSED RESIDENTIAL FACILITY. A structure constructed for residential purposes that is licensed by the state pursuant to Act No. 287 of the Public Acts of 1972, as amended, which provides resident services for six or less persons under 24-hour supervision or care for persons in need of that supervision or care.

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% by cubic content, is below the height level of the adjoining ground.

STORY, HALF. That part of a building between a pitched roof and the uppermost full story, said part having a finished floor area, which does not exceed one-half of the floor area of a full story.

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

STRIP MALL. An open area shopping center containing a row of various stores, businesses and restaurants.

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, free-standing signs, and satellite dishes, and not including sidewalks, drives, patios, and utility poles.

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.

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 ten acres or more.

SWIMMING POOL. Any commonly known structure having a water depth greater than 24 inches and a surface area greater than 250 square feet. (18 ft. dia.) or any pool equipped with a water recirculation or filtering system as defined by BOCA Section 625.0.

THROAT LENGTH (DRIVEWAY). The distance between the road serving a site and the parcel's internal end of a driveway, or the distance between the road and the site's internal circulation drive or the site's parking lot. Driveway throat length is used to measure the vehicle stacking required to be available for exiting or entering a site. In general this distance shall be measured along the centerline of a driveway, or along a line parallel to the centerline of a driveway. At the roadway end, the measurement shall be taken from either;

(1) A point in the driveway where a driver exiting the site can first safely see to make a right-turn or a left-turn completing their exit;

(2) A line parallel with the face of the curb, if present; or

(3) A line parallel with the edge of the road's paved shoulder, if present.

THROAT WIDTH (DRIVEWAY). The distance edge-to-edge of a driveway measured at the right-of-way line.

TOWNSHIP BOARD. This governing body of the Charter Township of Breitung.

TRIP GENERATION. The estimated total number of vehicle trip ends produced by a specific land use or activity. A trip end is the total number of trips entering or leaving a specific land use or site over a designated period of time. Trip generation is estimated through the use of trip rates that are based upon the type and intensity of development.

UNDERLYING DISTRICT. The base zone below an overlay zone which establishes the fundamental permitted uses, densities and dimensional regulations applicable to lands subject to a zoning ordinance.

USE, CHANGE OF. A modification or deviation from the original purpose, occupancy, utilization or classification of a building, structure or parcel or tract of land. The term is inclusive of:

(1) A discernible increase in the intensity of use, which by ordinance imposes more restrictive parking requirements or other more restrictive characteristics of use; or

(2) An alteration by change of use in a building heretofore existing, to a new use group, as defined in the Michigan Building Code, which imposes other special provisions of law governing building construction equipment or means of ingress/egress.

USE, INCREASE IN THE INTENSITY OF. A discernible increase in the level or volume of activity generated by a change in use or an increase in floor area or an increase in land area configurations.

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.

WINDFARMS (UTILITY GRID WIND ENERGY SYSTEM). A wind energy conversion system (windmill(s)) which converts wind energy into electricity (or other form of usable energy) through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. One or more windmills may be involved and the energy produced is intended to be primarily used off-site. Off-site wiring to connect the wind energy conversion system to the grid is not included in this definition.

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

WIRELESS COMMUNICATION SUPPORT STRUCTURE. Any structure used to support attached wireless communication facilities, or other antennae or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, or other similar structures which support wireless communication facilities.

YARDS.

(1) **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.

(2) **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.

(3) **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 Board's authorized representative is charged with the responsibility of administering this chapter.

(Ord. passed 7-28-1997; Ord. passed 3-22-1999; Ord. passed 5-28-2002; Ord. § 202, passed 9-14-2009; Ord. 1-2012, passed 12-26-2012; Ord. § 202, passed 11-9-2015)

ZONING DISTRICTS AND MAPS

§ 150.015 ESTABLISHMENT OF DISTRICTS.

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

- (A) R-1: Residential.
- (B) RR-1: Rural Residential One (one Acre).
- (C) RR-2: Rural Residential Two (two and one-half Acres).
- (D) RR-3: Rural Residential Three (five Acres).
- (E) SP: Scenic Preservation.
- (F) RP: Resource Production.
- (G) C-1: General Retail.
- (H) C-2: Commercial/Light Industrial.
- (I) I: Industrial.
- (J) AOZ: Airport Overlay District.

(Ord. § 301, passed 9-14-2009; Ord. § 301, passed 11-9-2015)

§ 150.016 ZONING DISTRICT MAPS.

(A) The boundaries of the respective districts enumerated in §150.015 are defined and established as depicted on the map entitled "Charter Township of Breitung Official Zoning Map," which is an integral part of this chapter. These maps, along with all notations and explanatory matter thereon, shall become as much a part of this chapter as if fully described herein. Unless shown otherwise, the boundaries of the districts are lot lines, section lines, the center-line of streets, alleys, roads or such lines extended, and the unincorporated limits of the township.

(B) The Charter Township of Breitung Official Zoning Map shall be identified by the signature of the Township Board Supervisor and attested by the Township Clerk. If, in accordance with the provisions of this chapter, changes are made in district boundaries, such changes shall be incorporated on the Charter Township of Breitung Official Zoning Map and approved by the Township Board together with an entry on the Charter Township of Breitung Official Zoning Maps showing the date and official action taken.

(C) One copy of the Charter Township of Breitung 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 Breitung Township.

(Ord. § 302, passed 9-14-2009; Ord. § 302, passed 11-9-2015)

§ 150.017 REPLACEMENT OF OFFICIAL ZONING MAP.

In the event 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 adopt new Official Zoning Maps, which shall supersede the prior Official Zoning Map. The Official Zoning Map shall bear the same signatures and certification as required in § 150.016. Unless the Official Zoning Map have been lost, or has been totally destroyed, the prior maps or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

(Ord. § 303, passed 9-14-2009; Ord. § 303, passed 11-9-2015)

§ 150.018 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 in the way of carrying out the strict letter of this chapter, the Zoning Board of Appeals shall have power in passing upon appeals, in accordance with §§ 150.180 through 150.187 and §§ 150.200 through 150.206 herein, to vary or modify regulations and provisions of this chapter so that the intent and purposes of this chapter shall be observed, public safety secured and substantial justice done.

(Ord. § 304, passed 9-14-2009; Ord. § 304, passed 11-9-2015)

§ 150.019 SCOPE OF PROVISIONS.

(A) Except as may otherwise be provided in this chapter, 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 or structure occurring after the effective date of this chapter shall be subject to all regulations of this chapter which are applicable in the zoning district in which such use, building, or structure shall be located.

(B) Uses are permitted by right only if specifically listed as uses permitted by right in the various zoning districts. Where not specifically permitted, either by right or conditionally, uses are thereby prohibited unless construed to be similar to an expressly permitted use. The Zoning Administrator shall determine if a use is similar to an expressly permitted use, and may consult the North American Industrial Classification System (NAICS) as amended, in making this determination. Any appeals to the Zoning Administrator's interpretation shall be to the Zoning Board of Appeals pursuant to the provisions of §§ 150.200*et seq.*, of this chapter.

(C) Accessory uses are permitted as indicated for the various zoning districts if such uses are clearly incidental to the permitted principal uses.

(D) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, and the like) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

(Ord. § 305, passed 9-14-2009; Ord. § 305, passed 11-9-2015)

§ 150.020 CONFLICTING REGULATIONS.

Wherever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than those imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern. No vested right shall arise to the property owner for any parcel or use created in violation of any preceding Breitung Township Zoning Ordinance.

(Ord. § 306, passed 9-14-2009; Ord. § 306, passed 11-9-2015)

§ 150.021 EXEMPTIONS.

The location and placement of pipes, wires, poles and generating equipment of public utilities, which provide service to individual dwellings or business locations are exempt from regulation under this chapter.

(Ord. § 307, passed 9-14-2009; Ord. § 307, passed 11-9-2015)

§ 150.022 DISTRICT R-1: RESIDENTIAL ONE.

(A) *Intent.* The R-1, Residential One District is intended for the establishment and preservation of quiet single-family home neighborhoods free from other uses, except those which are both compatible with and convenient to the residents of this District. The R-1 District is designed to accommodate residential opportunities where spacious lots are reasonable to insure a safe, potable water supply and treatment of wastewater on the same lot.

(B) *Principal permitted uses.*

- (1) Single-family dwellings.
- (2) State licensed residential care facilities for six or fewer persons. (See definition.)
- (3) Foster family homes (one to four children) and foster group homes (five to six children). (See definitions.)
- (4) Family day care homes (one to six children). (See definition.)
- (5) Open space preservation (option-see § 150.060).

(C) *Permitted accessory uses.* The following are permitted accessory uses:

- (1) Accessory structures normally associated with single-family dwellings, such as private garage, shed for yard tools, playhouse, woodshed, sauna and the like, except in the front yard.
- (2) Pens for household pets.
- (3) Swimming pools and accessory bath/changing house.

(D) *Conditional uses permitted.* The following uses of land and structures may be permitted in this District by application for and the issuance of a conditional use permit as provided for in §§ 150.125 through 150.140.16. The following will also need to meet Site Plan requirements in §§ 150.105 through 150.113.

- (1) Two-family dwellings.
- (2) Multiple family dwellings.
- (3) Home occupations, subject to the conditions of §150.049.
- (4) Cemeteries, subject to the conditions of §150.130.
- (5) Religious organizations, including Churches subject to the conditions of §150.131.
- (6) Schools.
- (7) Private and public parks and similar recreational facilities.
- (8) Child care centers subject to the conditions of §150.140.2 (see definition).
- (9) Community centers, libraries and public buildings.
- (10) Utility and public service facilities, subject to the conditions of §150.140.8.
- (11) Bed and breakfast establishments, subject to the conditions of §150.140.9.
- (12) Group (child) day care home (seven to 12 children), subject to the conditions of §150.140.10 (see definition).

(E) *Special district regulations.*

(1) The following regulations shall be applied to all dwellings located in the R-1 District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

(2) Dwellings shall:

(a) Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.

(b) Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as

required in the applicable building code for single-family dwellings.

(c) Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(d) The dwelling contains no additions or rooms or other areas, which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(e) The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

(Ord. § 308, passed 9-14-2009; Ord. 1-2012, passed 12-26-2012; Ord. § 308, passed 11-9-2015)

§ 150.023 DISTRICT RR-1: RURAL RESIDENTIAL ONE (ONE ACRE).

(A) *Intent.* The RR-1, Rural Residential One District is established to protect and generally preserve the existing character and use of those areas of the Charter Township of Breitung, developing into a residential environment in accessible rural areas at moderate densities.

(B) *Principal permitted uses.*

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) State licensed residential care facilities for six or fewer persons. (See definition.)
- (4) Foster family homes (one to four children) and foster group homes (five to six children). (See definitions.)
- (5) Family day care homes (one to six children). (See definition.)
- (6) Cemeteries.
- (7) Public and private recreational facilities, including parks, playgrounds, day camps, campgrounds, parkways, and similar recreational facilities.
- (8) The growing and harvesting of timber.
- (9) Open space preservation (option- see § 150.060).
- (10) Hobby farms subject to the requirements of §150.065.

(C) *Permitted accessory uses.* The following are permitted accessory uses:

- (1) Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, woodshed, boathouse, sauna and the like.
- (2) Pens for household pets.
- (3) Swimming pool and accessory bath/changing house.

(D) *Conditional uses permitted.* The following uses of lands and structures may be permitted in this District by application for and issuance of a conditional use permit as required for in §§ 150.125 through 150.140.16. The following will also need to meet Site Plan requirements in §§ 150.105 through 150.113.

- (1) Religious organizations, including Churches subject to the conditions of §150.131.
- (2) Schools.
- (3) Veterinarian offices and animal clinics, subject to the conditions of §150.140.
- (4) Home occupation subject to the conditions of §150.049.
- (5) Multiple family dwellings.
- (6) Resorts.
- (7) Provision of essential services.
- (8) Child care centers, subject to the conditions of §150.140.2 (see definition).
- (9) Wireless communication facility and structures, subject to the conditions of §150.133.
- (10) Greenhouse, commercial.
- (11) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.
- (12) Utility and public service facilities, subject to the conditions of §150.140.8.

(13) Bed and breakfast establishments, subject to the conditions of §150.140.9.

(14) Group (child) day care home (seven to 12 children), subject to the conditions of §150.140.10 (see definition).

(E) *Special district regulations.*

(1) The following regulations shall be applied to all dwellings located in the RR-1 District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

(2) Dwellings shall:

(a) Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards

or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.

(b) Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.

(c) Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(d) The dwelling contains no additions or rooms or other areas, which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(e) The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

(Ord. passed 8-9-1999; Ord. passed 5-28-2002; Ord. § 309, passed 9-14-2009; Am. Ord. 1-2012, passed 12-26-2012; Ord. § 309, passed 11-9-2015)

§ 150.024 DISTRICT RR-2: RURAL RESIDENTIAL TWO (TWO AND ONE-HALF ACRES).

(A) *Intent.* The RR-2, Rural Residential Two District is established to protect and generally preserve the existing character and use of those areas of the Charter Township of Breitung, developing into a residential environment in accessible rural areas at moderate densities, but lower densities than RR-1.

(B) *Principal permitted uses.*

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) State licensed residential care facilities for six or fewer persons. (See definition.)

(4) Foster family homes (one to four children) and foster group homes (five to six children). (See definitions.)

(5) Family day care homes (one to six children). (See definition.)

(6) Cemeteries.

(7) Public and private recreational facilities, including parks, playgrounds, day camps, campgrounds, parkways, and similar recreational facilities.

(8) The growing and harvesting of timber.

(9) Open space preservation (option- see § 150.060).

(10) Hobby farms subject to the requirements of §150.065.

(C) *Permitted accessory uses.* The following are permitted accessory uses:

(1) Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, woodshed, boathouse, sauna and the like, except in the front yard.

(2) Pens for household pets.

(3) Swimming pool and accessory bath/changing house.

(D) *Conditional uses permitted.* The following uses of lands and structures may be permitted in this District by application for and issuance of a conditional use permit as required for in §§ 150.125 through 150.140.16. The following will also need to meet Site Plan requirements in §§ 150.105 through 150.113.

(1) Religious organizations, including Churches subject to the conditions of §150.131.

- (2) Schools.
- (3) Veterinarian offices and animal clinics, subject to the conditions of §150.140.
- (4) Home occupation subject to the conditions of §150.049.
- (5) Multiple family dwellings.
- (6) Resorts.
- (7) Accessory structures located in the front yard.
- (8) Provision of essential services.
- (9) Child care centers, subject to the conditions of §150.063 (see definition).
- (10) Wireless communication facility and structures, subject to the conditions of §150.133.
- (11) Greenhouse, commercial.
- (12) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.
- (13) Utility and public service facilities, subject to the conditions of §150.140.8.
- (14) Bed and breakfast establishments, subject to the conditions of §150.140.9.
- (15) Group (child) day care home (seven to 12 children), subject to the conditions of §150.140.10 (see definition).

(E) *Special district regulations.*

(1) The following regulations shall be applied to all dwellings located in the RR-2 District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

(2) Dwellings shall:

(a) Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.

(b) Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.

(c) Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(d) The dwelling contains no additions or rooms or other areas, which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(e) The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

(Ord. passed 8-9-1999; Ord passed 5-28-2002; Ord. § 310, passed 9-14-2009; Ord. 1-2012, passed 12-26-2012; Ord. § 310, passed 11-9-2015)

§ 150.025 DISTRICT RR-3: RURAL RESIDENTIAL THREE (FIVE ACRES).

(A) *Intent.* The RR-3, Rural Residential Three District is established to protect and generally preserve the existing character and use of areas of the Charter Township of Breitung, which are presently rural or agriculture. Soil and natural conditions vary throughout this District, including woodlots and farms. These areas are considered to be suitable for scattered, rural residential development, and the perpetuation of existing farms and other low intensity land uses on parcels of at least five acres.

(B) *Principal permitted uses.*

- (1) Single-family dwellings and manufactured housing units.
- (2) Two-family dwellings.
- (3) State licensed residential care facilities for six or fewer persons. (See definition.)
- (4) Foster family homes (one to four children) and foster group homes (five to six children). (See definitions.)
- (5) Family day care homes (one to six children). (See definition.)

(6) Cemeteries.

(7) Public and private recreational facilities, playgrounds, day camps, campgrounds, parkways, wildlife preserves, and similar recreational facilities.

(8) The growing and harvesting of timber.

(9) Agricultural production.

(10) Hobby farms subject to the requirements of §150.065.

(11) Open space preservation (option- see § 150.060).

(C) *Permitted accessory uses.* The following are permitted accessory uses:

(1) Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, woodshed, boathouse, sauna and the like, except in the front yard.

(2) Pens for household pets.

(3) Swimming pool and accessory bath/changing house.

(4) Accessory uses of structures clearly incidental to the operation of an existing farm, including barns, silos, sheds, equipment, storage and similar structures customarily incidental to the permitted principal use and structures.

(D) *Conditional uses permitted.* The following uses of lands and structures may be permitted in this District by application for and issuance of a conditional use permit as required for in §§ 150.125 through 150.140.16. The following will also need to meet Site Plan requirements in §§ 150.105 through 150.113.

(1) Religious organizations, including Churches subject to the conditions of §150.131.

(2) Schools.

(3) Veterinarian offices and animal clinics, subject to the conditions of §150.140.

(4) Commercially used recreational space for adult or children's facilities, including fitness and recreational sports centers (e.g. gymnasiums, handball, racquetball, and tennis courts, ice and roller skating rinks, swimming and wave pools), bowling centers, archery and indoor shooting ranges, billiard or pool parlors, amusement parks, carnivals, rebound tumbling facilities, miniature golf courses, go-cart facilities, and similar facilities, subject to § 150.132.

(5) Roadside stand for the sale of farm produce, specialty crops, such as tree fruits, nuts, berries, and the like, or foodstuffs made from such products, providing it is raised on the property.

(6) Storage yards, transformer stations, substations, microwave relay towers, commercial freestanding towers, and similar facilities associated with public service uses and facilities.

(7) Auction sale barns.

(8) Facilities for bulk feed, seed or fertilizer sales, storage or mixing.

(9) Farm equipment sales, services or repair.

(10) Home occupation subject to the conditions of §150.049.

(11) Provision of essential services.

(12) Wireless communication facility and structures, subject to the conditions of §150.133.

(13) Greenhouse, commercial.

(14) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.

(15) Utility and public service facilities, subject to the conditions of §150.140.8.

(16) Bed and breakfast establishments, subject to the conditions of §150.140.9.

(17) Group (child) day care home (seven to 12 children), subject to the conditions of §150.140.10 (see definition).

(18) Private use landing field, subject to the conditions of §150.140.11.

(Ord. passed 5-28-2002; Ord. § 311, passed 9-14-2009; Am. Ord. 1-2012, passed 12-26-2012; Ord. § 311, passed 11-9-2015)

§ 150.026 DISTRICT SP: SCENIC PRESERVATION.

(A) *Intent.* The SP, Scenic Preservation District is established to preserve and maintain the natural characteristics within the Fumee Lake watershed boundaries. Because this undeveloped and unique area contains a number of threatened or endangered plant and animal species, the area needs to be preserved to the greatest extent possible and only developed for extremely low density and passive type uses. Special consideration needs to be given to maintain a natural buffer or strip of land along the edges of both Fumee Lake and Little Fumee Lake to protect this valuable and fragile resource.

(B) *Principal permitted uses.*

(1) Public recreational facilities, including parks, day camps, campgrounds, parkways, wildlife preserves, trails, swimming beach, and similar non-intensive recreational facilities.

(2) Single-family dwellings.

(3) State licensed residential care facilities for six or fewer persons. (See definition.)

(4) Foster family homes (one to four children) and foster group homes (five to six children). (See definitions.)

(5) Family day care homes (one to six children). (See definition.)

(6) Open space preservation (option- see § 150.060).

(C) *Permitted accessory uses.* The following are permitted accessory uses:

(1) Accessory structures normally associated with residential dwellings such as private garage, shed for yard tools, playhouse, woodshed, and sauna except in the front yard.

(2) Pens for household pets.

(D) *Conditional uses permitted.*

(1) Home occupation subject to the conditions of §150.049.

(2) Utility and public service facilities, subject to the conditions of §150.140.8.

(3) Bed and breakfast establishments, subject to the conditions of §150.140.9.

(4) Group (child) day care home (seven to 12 children), subject to the conditions of §150.140.10 (See definition).

(E) *Special district regulations.*

(1) The following regulations shall be applied to all dwellings located in the SP District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

(2) Dwellings shall:

(a) Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.

(b) Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.

(c) Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(d) The dwelling contains no additions or rooms or other areas, which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(e) The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

(Ord. § 312, passed 9-14-2009; Ord. § 312, passed 11-9-2015)

§ 150.027 DISTRICT RP: RESOURCE PRODUCTION.

(A) *Intent.* The RP, Resource Production District is established to maintain low density rural areas which because of their rural character and location, accessibility, natural characteristics and the potentially high cost of providing public services for intensive uses are suitable for a wide range of forestry, agricultural, natural resources and recreational uses.

(B) *Principal permitted uses.*

(1) The growing and harvesting of timber.

(2) Campgrounds, day camps.

(3) Parks, winter sports facilities, and trails.

(4) Recreational structures.

(5) Single-family dwellings.

- (6) State licensed residential care facilities for six or fewer persons. (See definition.)
- (7) Foster family homes (one to four children) and foster group homes (five to six children). (See definitions.)
- (8) Family day care homes (one to six children). (See definition.)
- (9) Manufactured housing communities on a minimum of 15 acres, subject to the requirements as established and regulated by Act 419 of the Public Acts of 1976, as amended.
- (10) Agricultural production.
- (11) Hobby farms subject to the requirements of §150.065.
- (12) Open space preservation (option-see § 150.060).
- (13) Provision of essential services.

(C) *Permitted accessory uses.* The following are permitted accessory uses:

- (1) Accessory structures normally associated with residential dwellings such as a private garage, shed for yard tools, playhouse, boathouse, woodshed, sauna and the like.
- (2) Pens for household pets.
- (3) Accessory uses or structures clearly incidental to the operation of a farm including barns, silos, sheds, equipment storage and similar structures customarily incidental to the permitted principal use and structures.
- (4) Swimming pools and accessory bath/changing house.

(D) *Conditional uses permitted.* The following uses of land and structures may be permitted in this District, by application for and issuance of a conditional use permit as provided for in §§ 150.125 through 150.140.16. The following will also need to meet the Site Plan requirements in §§ 150.105 through 150.113.

- (1) Wireless communication facility and structures, subject to the conditions of §150.133.
- (2) Commercially used recreational space for adult or children's facilities, including fitness and recreational sports centers (e.g. gymnasiums, handball, racquetball, and tennis courts, ice and roller skating rinks, swimming and wave pools), bowling centers, archery and indoor shooting ranges, billiard or pool parlors, amusement parks, carnivals, rebound tumbling facilities, miniature golf courses, go-cart facilities, and similar facilities, subject to § 150.132.
- (3) Large scale recreation uses, including golf driving ranges, gun clubs, outdoor shooting ranges, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type rides, tracks and other constructed courses for off-road vehicles whether for personal use or public use, (but not including circuses, motorcycle and auto racetracks, and horse or dog tracks), subject to § 150.140.1.
- (4) Public or private sanitary landfills and holding areas for inert materials, subject to the conditions of §150.134.
- (5) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.
- (6) Golf courses, subject to the conditions of §150.139.
- (7) Kennels, subject to the conditions of §150.140.
- (8) Bed and breakfast establishments, subject to the conditions of §150.140.9.
- (9) Group (child) day care home (seven to 12 children), subject to the conditions of §150.140.10 (See definition).
- (10) Private airport and private use landing fields, subject to the conditions of §150.140.11.
- (11) Utility grid wind energy system (wind farm), subject to the conditions of §150.140.15.
- (12) Mineral extraction, subject to the conditions of § 150.140.16.
- (13) Auction sale barns.
- (14) Feedlots.
- (15) Storage yards, transformer stations, substations, microwave relay towers, hydroelectric facilities and similar facilities associated with public service uses or facilities.
- (16) Sawmills.
- (17) Resorts, lodges and associated facilities.
- (18) Home occupation, subject to the conditions of §150.049.

(Ord. passed 5-28-2002; Ord. § 313, passed 9-14-2009; Am. Ord. 1-2012, passed 12-26-2012; Ord. § 313, passed 11-9-2015)

§ 150.028 DISTRICT C-1: GENERAL RETAIL.

(A) *Intent.*

(1) The C-1, General Retail District, is established to preserve a district for general retail and service establishments with a range of retail, business and professional offices. The intent is to encourage the concentration of such businesses to areas, thereby promoting the best use of the land at certain strategic locations.

(2) Where it is determined by the Planning Commission that the effects of a listed use may tend to extend beyond the site, then conditional land use approval shall be required.

(B) *Principal permitted uses.* General retail as itemized below and service establishments.

(1) Grocery stores, baked goods or other foods.

(2) Specialty food stores, meat markets, fish and seafood markets, dairy product store, candy, nut, and confectionery stores.

(3) Coffee shops, doughnut shops, and ice cream parlors.

(4) Pharmacies and drug stores.

(5) Hardware stores.

(6) General merchandise, variety, dry goods, and dollar stores.

(7) Sporting goods stores.

(8) Convenience and party stores.

(9) Beer, wine, and liquor stores.

(10) Post office which among other things provides for direct customer services, not including rural route distribution centers or regional collection, sorting, and distribution. Also includes similar governmental office buildings or package delivery service retail stores (couriers: UPS, FedEx, and the like) that serve persons living in the adjacent residential area.

(11) Beauty and barbershops.

(12) Health spas, fitness and exercise centers without overnight accommodations, but not including those defined as a sexually oriented business (See §§ 150.004 and 150.137).

(13) Pub, tavern, or bar, but not including those defined as a sexually oriented business (See §§150.004 and 150.137).

(14) Full service restaurants.

(15) Farmer's market, fruit and vegetable markets.

(16) Florists and flower shops.

(17) Greenhouse, nursery and garden centers.

(18) Tailor shops.

(19) Dry cleaners.

(20) Laundromats and other self-service laundries.

(21) Photographers and photographic studios, but not including those defined as a sexually oriented business (See §§ 150.004 and 150.137).

(22) Personal service establishments.

(23) Banks and financial institutions.

(24) Medical and dental offices.

(25) Motels and hotels.

(26) Governmental offices.

(27) Professional offices such as, but not limited to lawyers, accountants, architects, engineers, surveyors, interior design service.

(28) Single-family dwelling above or contained within one of the permitted uses.

(29) Manufactured housing communities on a minimum of 15 acres, subject to the requirements as established and regulated by Act 419 of the Public Acts of 1976, as amended.

(30) Mini-storage facilities.

(C) *Permitted accessory uses.* The following are permitted accessory uses:

(1) Off-street parking, as required and subject to the regulations established in §150.053.

- (2) Any structural or mechanical use customarily incidental to the permitted principal use.
- (3) Signs in accordance with §§ 150.080 through 150.092.

(D) *Conditional uses permitted.* The following uses of land and structures may be permitted in this District, by application for and issuance of a conditional use permit as provided for in §§ 150.125 through 150.140.16. The following will also need to meet Site Plan requirements in §§ 150.105 through 150.113.

- (1) Religious organizations, including Churches subject to the conditions of §150.131.
- (2) Schools.
- (3) Private clubs and lodge halls.
- (4) Gas stations.
- (5) Indoor theaters and assembly halls, but not including those defined as a sexually oriented business (See §§ 150.004 and 150.137).
- (6) Dwelling, multiple family, by either ownership or lease.
- (7) Provision of essential services.
- (8) Commercially used recreational space for adult or children's facilities, including fitness and recreational sports centers (e.g. gymnasiums, handball, racquetball, and tennis courts, ice and roller skating rinks, swimming and wave pools), bowling centers, archery and indoor shooting ranges, billiard or pool parlors, amusement parks, carnivals, rebound tumbling facilities, miniature golf courses, go-cart facilities, and similar facilities, subject to § 150.132.
- (9) Wireless communication facility and structures, subject to the conditions of §150.133.
- (10) Mini-mall.
- (11) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.
- (12) General hospitals, subject to the conditions of §150.138.
- (13) Nursing homes, convalescent or rest homes, homes for the aged, indigent or handicapped and orphanages, subject to the conditions of § 150.140.3.
- (14) Public and private colleges and universities, subject to the conditions of §150.140.5.
- (15) Motor vehicles sales, subject to the conditions of §150.140.7.
- (16) Outdoor business sales and storage, including manufactured home sales, recreational vehicles, travel trailers and boats including both rental and sales, subject to the conditions of § 150.140.7.
- (17) Drive-in, drive-through, fast food and carry-out restaurants, subject to the conditions of §150.140.12.
- (18) Motor vehicle repair and service facilities, subject to the conditions of §150.140.13.
- (19) Motor vehicle washing, conveyor or non-conveyor types, subject to the conditions of §150.140.14.

(Ord. passed 9-28-1998; Ord. passed 8-9-1999; Ord. passed 5-28-2002; Ord. § 314, passed 9-14-2009; Ord. 1-2012, passed 12-26-2012; Ord. § 314, passed 11-9-2015)

§ 150.029 DISTRICT C-2: COMMERCIAL/LIGHT INDUSTRIAL.

(A) *Intent.*

(1) The C-2, Commercial/Light Industrial District is established to preserve a district for light industrial uses, along with compatible commercial uses.

(2) Where it is determined by the Planning Commission that the effects of a listed use may tend to extend beyond the site, then conditional land use approval shall be required.

(B) *Principal permitted uses.*

- (1) Motor vehicle sales, service, and leasing and rental.
- (2) Sales of boats, campers, and recreational vehicles.
- (3) Construction, mining, forestry and farm machinery and equipment sales, service and leasing.
- (4) Sales of manufactured housing units.
- (5) Monument sales.
- (6) Wholesale and storage uses.
- (7) Motels and hotels.

- (8) Restaurants, full service, restaurants, limited service (e.g. fast-food).
- (9) Convenience and party stores.
- (10) Food packaging and bottling works.
- (11) Commercial printing and newspaper offices.
- (12) Laundry, cleaning and drying plants.
- (13) Lumber yards.
- (14) Gas stations.
- (15) Truck stop.

(16) Commercially used recreational space for adult or children's facilities, including fitness and recreational sports centers (e.g. gymnasiums, handball, racquetball, and tennis courts, ice and roller skating rinks, swimming and wave pools), bowling centers, archery and indoor shooting ranges, billiard or pool parlors, amusement parks, carnivals, rebound tumbling facilities, miniature golf courses, go-cart facilities, and similar facilities.

(17) Large scale recreation uses, including driving ranges, commercial stables with or without an arena, gun clubs, outdoor shooting ranges, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type rides, tracks and other constructed courses for off-road vehicles whether for personal use or public use, (but not including circuses, motorcycle and auto racetracks, and horse or dog tracks).

- (18) Farmer's market, fruit and vegetable markets.
- (19) Florists and flower shops.
- (20) Greenhouse, nursery and garden centers.
- (21) Single-family dwelling above or contained within one of the permitted uses.

(22) Manufactured housing communities on a minimum of 15 acres, subject to the requirements as established and regulated by Act 419 of the Public Acts of 1976, as amended.

(23) Mini-storage facilities.

(C) *Permitted accessory uses.* The following are permitted accessory uses:

- (1) Off-street parking as required and subject to the regulations established in §150.053.
- (2) Any structural or mechanical use customarily incidental to the permitted principal use.
- (3) Signs in accordance with §§ 150.080 through 150.092.

(D) *Conditional uses permitted by conditional use permit.* The following uses of land and structures may be permitted in this District by application for and the issuance of a conditional use permit, as provided for in §§ 150.125 through 150.140.16. The following will also need to meet Site Plan requirements in §§150.105 through 150.113.

(1) Other industrial or commercial uses, which do not emit fumes, vibration, smoke or noise, except as the result of ingress and egress of vehicles from the property.

- (2) Provision of essential services.
- (3) Caretaker residence.
- (4) Wireless communication facility and structures, subject to the conditions of §150.133.
- (5) Contractor's yard.
- (6) Dwelling, multiple family.
- (7) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.
- (8) General hospitals, subject to the conditions of §150.138.
- (9) Veterinarian offices and animal clinics, subject to the conditions of §150.140.
- (10) Public and private colleges and universities, subject to the conditions of §150.140.5.
- (11) Drive-in, drive-through, fast food and carry-out restaurants, subject to the conditions of §150.140.12.
- (12) Motor vehicle repair and service facilities, subject to the conditions of §150.140.13.
- (13) Motor vehicle washing, conveyor or non-conveyor types, subject to the conditions of §150.140.14.

(Ord. passed 7-28-1997; Ord. passed 5-28-2002; Ord. § 315, passed 9-14-2009; Ord. 1-2012, passed 12-26-2012; Ord. § 315, passed 11-9-2015)

§ 150.030 DISTRICT I: INDUSTRIAL.

(A) *Intent.*

(1) The I, Industrial District is designed and intended for manufacturing, assembling, fabricating, processing, storage and similar operations which may require larger sites and isolation from other types of land uses, and to make provisions for commercial uses necessary to service the immediate needs of an industrial area.

(2) Where it is determined by the Planning Commission that the effects of a listed use may tend to extend beyond the site, then conditional land use approval shall be required.

(B) *Principal permitted uses.*

- (1) Light industrial manufacturing.
- (2) Processing, assembling and fabrication operations.
- (3) Warehousing.
- (4) Lumber yards.
- (5) Contractor yards and shops.
- (6) Auto body and paint shops.
- (7) Sawmills.
- (8) Concrete and asphalt plants.
- (9) Pulp and paper mills.
- (10) Research laboratories.
- (11) Transfer stations.
- (12) Water and wastewater treatment plants.
- (13) Heating and electrical power generating plants.

(14) Public and private recreational facilities, including parks, walkways, trails, wild animals parks, nature parks, amusement and theme parks, fitness and recreational sports centers (e.g. gymnasiums, handball, racquetball, and tennis courts, ice and roller skating rinks, swimming and wave pools), bowling centers, archery or indoor shooting ranges, billiard or pool parlors, miniature golf courses, go-cart facilities, and administration of conservation programs.

- (15) Truck stop.
- (16) Bulk storage; petroleum and farm products.
- (17) Private use landing fields, provided the requirements of §150.140.11.

(C) *Permitted accessory uses.* The following are permitted accessory uses:

- (1) Off-street parking as required and subject to the regulations established in §150.053.
- (2) Any structural or mechanical use customarily incidental to the permitted principal use.
- (3) Signs in accordance with §§ 150.080 through 150.092.

(D) *Conditional uses permitted by conditional use permit.* The following uses of land and structures may be permitted in this District by application for and issuance of a conditional use permit as required in §§ 150.125 through 150.140.16. The following will also need to meet the Site Plan requirements of §§ 150.105 through 150.113.

- (1) Other industrial or heavy commercial uses not specifically indicated as a principal permitted use.
- (2) Junkyards, recyclable material processors and wholesalers.
- (3) Provision of essential services.
- (4) Wireless communication facility and structures, subject to the conditions of §150.133.
- (5) Public or private sanitary landfills and holding areas for inert materials, subject to the conditions of §150.134.
- (6) Outdoor wood burning boilers and appliances, subject to conditions of §150.135.
- (7) Sexually oriented business, subject to the conditions of §150.137.
- (8) Veterinarian offices and animal clinics, subject to the conditions of §150.140.

(9) Large scale recreation uses, including golf driving ranges, commercial stables with or without an arena, gun clubs, outdoor shooting ranges, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type rides, tracks and other constructed courses for off-road vehicles whether for personal use or public use, (but not including circuses,

motorcycle and auto racetracks, and horse or dog tracks), subject to § 150.140.1.

(10) Outdoor theaters, subject to the conditions of §150.140.4.

(11) Public and private colleges and universities, subject to § 150.140.5.

(12) Race tracks including, midget auto, motorcycle, karting, snowmobile, and other motor vehicle tracks, and similar facilities, subject to the conditions of § 150.140.6.

(13) Utility grid wind energy system (wind farm), subject to the conditions of §150.15.

(E) (1) Additional conditional use permit required area:

(2) In areas where the Industrial Zone borders R-1, RR-1, RR-2 and RR-3 there will be a 200-foot deep buffer. Any use of this buffer zone shall require a conditional use permit.

(Ord. passed 5-28-2002; Ord. § 316, passed 9-14-2009; Ord. 1-2012, passed 12-26-2012; Ord. § 316, passed 11-9-2015)

§ 150.031 DISTRICT AOZ: AIRPORT OVERLAY DISTRICT.

(A) *Purpose.* It is the intent and purpose of this section to provide the necessary safety and protection to the users of the Ford Airport and to the people who live, work and use property in its vicinity.

(B) *Hazard area.* This section establishes regulations for all land uses located within 20,000 feet from any point along the edge of the planned runways for the Ford Airport. In effect, this section establishes a large bowl of air around and above the airport for a distance of 20,000 feet from all points along the edges of the planned runways and from the bottom imaginary plane of which the heights of all trees and structures shall be at least 25 feet distant below the said plane.

(C) *Hazards.* Structures and trees which project above the height limitations are considered hazards to flying and endanger lives and property. The prescribed height limits are not arbitrarily set, but are based on past experience and studies made by the Michigan Aeronautics Commission and by the Federal Aviation Administration. Height limits are based upon the established elevation of the airport or upon the elevation of the end of the nearest runway.

(D) *Existing nonconforming trees and structures.* This section does not affect existing structures, the height of which exceeded the limits imposed by this section as of the effective date hereof. New construction, and construction increasing the height of existing structures, within the prescribed distances of the airport, must conform to the provisions on height limitations specified in division (J). This section also restricts such use of land within the vicinity of the airport as will unreasonably interfere with radio communications systems and other navigational aids or devices used by the airport and aircraft, or would reduce visibility or would create confusing lights.

(E) *Provisions for variances.* This section contains provisions for the granting of variances of the height limits by the Zoning Board of Appeals in event of practical difficulty or unnecessary hardship, if the requested variance would not be contrary to the public interest and safety. It is the intent of the Township Board and the Zoning Board of Appeals, with the cooperation of the public, to have this subchapter administered in a reasonable and just manner in keeping with the responsibilities involved.

(F) *Definition of terms.*

AIRPORT. The Ford Airport and all appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights-of-way or other interests either heretofore or hereafter established.

AIRPORT HAZARD. Any structure or tree which within the airport hazard area which exceeds the height limitations established by this section, or any use of land or of appurtenances thereto within the airport hazard area which interferes with the safe use of the airport by aircraft.

AIRPORT HAZARD AREA. Any area of land or water, or both, lying within the radius prescribed in division (J) and on the map entitled Airport Hazard Area.

ABOVE MEAN SEA LEVEL. When used in this section or on the accompanying Ford Airport Maps, denotes elevations above sea level as based upon and determined by reference to United States Coast and Geodetic Survey datum.

NONCONFORMING USE. Any structure, tree or use of land which does not conform to regulations prescribed in this section or any amendment thereto as of the effective date of such regulations.

PERSON. Any individual, firm partnership, corporation, company, association, joint stock association, municipal corporation or other body politic, and including any trustee, receiver, assignee or other similar representative thereof.

STRUCTURE. Any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, radio and television aerials and antennae, but not including highways and their appurtenances.

TREE. Any object of natural growth.

ZONING ADMINISTRATOR. The Breitung Township official who is designated by the Breitung Township Board and charged with the administration and enforcement of the provisions of this chapter.

(G) *Airport Overlay Zoning District regulations.*

(1) *Airport hazard area.* There is hereby established an airport hazard area, which area or zone consists of all the lands within Breitung Township lying beneath the airplane takeoff and approach, transitional, conical and horizontal surfaces of the airport, said land being located within a circle having a radius extending horizontally from the edges of all runways as prescribed in division (J) and on the map entitled Airport Hazard Area.

(2) *Legal height and land use limitations.* From and after the effective date of this section, it shall be unlawful for any person to erect any structure or allow any tree to grow to a height in excess of the limitations prescribed by the terms of this section and the attached maps; or to establish any use of lands contrary to the provisions of this section.

(3) *Unlawful land uses.* Notwithstanding any other provisions of this section, it shall be unlawful to put any lands within the Airport Hazard Area to any use which would:

(a) Create electrical interference with radio communication between the airport and aircraft or create interference with navigational aids employed by aircraft;

(b) Make it difficult for flyers to distinguish between airport lights and other lights or result in glare in the eyes of flyers using the airport;

(c) Create air pollution in such amounts as to impair the visibility of flyers in the use of the airport;

(d) Would otherwise endanger the landing, taking off or maneuvering of aircraft; or

(e) Would attract birds.

(4) *Nonconforming existing heights of land uses.* The provisions of division (G)(2) (legal height and land use limitations) of this section shall not apply to structures, trees or other nonconforming uses as the same may exist in the airport hazard area on the effective date thereof, unless subsequent thereto the Zoning Administrator determines the same to be abandoned, or 80% torn down, destroyed, deteriorated, or decayed, in which cases the trees or structures shall not be reoccupied and used except in conformance with the section and other requirements of this chapter, and the nonconformance portions of the trees or structures shall be removed to the extent necessary to gain conformance to this section.

(5) *Alternatives to nonconforming heights and land uses.* The provisions of division (G)(2) (legal height and land use limitations) of this section shall apply to changes or alterations in existing structures, trees or other nonconforming uses after the effective date hereof, and any increase in the height thereof, with the same force and effect as though the same were new uses.

(H) *Administration of this section.*

(1) *Height limitation standards.* It may be necessary for the Zoning Administrator to refer to the published standards for the approach, transitional, conical and horizontal surfaces as described in Approach Standards and/or Regulations of the Michigan Aeronautics Commission and/or the Federal Aviation Administration. The Zoning Administrator shall calculate proper height limitations by interpolating between the aerial elevations and determined from the Airport Hazard Area Map with specific reference to the exemplary cross-section for determining height limitations for trees and structures.

(2) *Administrative official.* The Breitung Township Zoning Administrator is hereby charged with the duty of administering and enforcing the provisions of this section. The duties of the Zoning Administrator shall include those of issuing permits as hereinafter required, but the Administrator shall not have or exercise any of the powers or duties herein delegated to the Zoning Board of Appeals. The Zoning Administrator may adopt such administrative procedures as may be necessary in connection with the administration and enforcement of this section, subject to the approval of the Township Board.

(3) *Zoning Board of Appeals.* The Zoning Board of Appeals, as established by this chapter shall have jurisdiction over the granting of variances under this section, except that the granting of such variances shall be conditioned by the recommendations which are submitted to the Zoning Board of Appeals by the Michigan Aeronautics Commission and/or the Federal Aviation Administration prior to the granting of such variances. The Zoning Board of Appeals shall adopt rules and procedures under the provisions of this subchapter so that it can be properly administered and variances granted in a uniform and equitable manner.

(4) *Certificates of variance.* Applications for certificates of variance shall be submitted on such forms as shall be provided for by the rules of the Zoning Board of Appeals, and if the application be granted, the applicant shall be provided a certificate of variance in such form as shall be prescribed by such rules. Provided that said certificate shall include the provision that it is not to be effective for a period of 30 days following the date of its issuance, and immediately upon issuance a copy thereof shall be filed with the Michigan Aeronautics Commission and a copy with the Township Board. In acting upon applications for variance, variances shall be allowed where a literal application of such regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest and approach protection standards, but would do substantial justice and be in accordance with the spirit of the regulations of this section; provided, however, that any such variance may be allowed subject to any reasonable condition or conditions subsequent that the Zoning Board of Appeals may deem necessary to effectuate the purpose of this section. Provided further that nothing in this section shall be construed to permit a use which would conflict with any other zoning regulations applicable to the same area.

(5) *Application procedure.* Applications for zoning permits shall be made upon forms furnished by the Zoning Administrator, and the Administrator shall within 15 days from the filing thereof determine whether the height limitations as regulated by this section, would or would not be violated if such application be granted and shall grant or deny said

application accordingly (said Administrator not being vested with authority to permit a variance) and advise applicant of the action within three days after the same has been determined. The force and effect of a denial shall be to leave the applicant free to apply to the Zoning Board of Appeals for a variance. It is intended that the maximum height limitation to be imposed by this section shall be 25 feet or below the 1':100' flight approach path as required in division (J), whichever is greater. Provided further that the issuance of a permit shall not be construed to permit a use that violates any other zoning ordinance requirements or other regulations applicable to the same area, lot or parcel.

(6) *Exception for emergency utility repairs.* No permit under the provisions of this section shall be required for the emergency repair or replacement of nonconforming public utility structures, other than buildings, when the height of such structures will not be increased by such emergency repairs or replacement. It is intended that in the application of this provision any combination of circumstances calling for immediate action or remedy in the repair or replacement of such non-conforming public utility structures shall be deemed an emergency.

(I) *Judicial appeals; appeals to Circuit Court.* Any person, including the Michigan Aeronautics Commission or the Federal Aviation Administration on behalf of and/or in the name of the state or federal government, aggrieved by an decision of the Zoning Administrator or Zoning Board of Appeals, may appeal to the Circuit Court of the County of Dickinson as provided in Section 30 of Act No. 23, of the Public Acts of the State of Michigan for the year 1950 (Extra Session), The Airport Zoning Act.

(J) *Height regulations.* No tree or structure shall come closer than 25 feet to an imaginary surface or plane extending outwards and upwards at the rate of one foot rise for every 100 feet of horizontal distance within 20,000 feet of the nearest point of all runways.

(K) *Federal regulations (FAR Part 77).* This FAR is hereby made a part of this subchapter. This subchapter is not intended to conflict with existing state and federal approach protection regulations. The Federal Aviation Administration requires that they be given notice of any construction or alteration:

- (1) That would be more than 200 feet above ground level at its site.
- (2) That would be above an imaginary surface extending outwards and upward at 100 to one slope within 20,000 feet of the nearest point of a runway more than 3,200 feet in length.
- (3) That would be above an imaginary surface extending outward and upward at 50:1 slope within 10,000 feet of the nearest point of a runway less than 3,200 feet in length.

(Ord. § 317, passed 11-9-2015)

GENERAL REGULATIONS

§ 150.045 HEIGHT, BULK AND PLACEMENT REGULATIONS.

Except as otherwise specifically provided in this chapter, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below in the Schedule of Regulations and no structure shall be erected or maintained which exceeds the height limit specified below.

Schedule of Regulations							
			Minimum Set Backs (feet)				
Zoning Districts	Min. Lot Size (sq. ft.)	Min. Lot Width (feet)	Front	Side	Rear	Max. Height (feet)^N	Min. Building Width (feet)
Schedule of Regulations							
			Minimum Set Backs (feet)				
Zoning Districts	Min. Lot Size (sq. ft.)	Min. Lot Width (feet)	Front	Side	Rear	Max. Height (feet)^N	Min. Building Width (feet)
R-1	20,000A	100	30	10B	10C	30D	20
RR-1	1 AcreF	150	40	30B	30E	30	20
RR-2	2.5 AcresF	200	40	30B	30E	30D1	20
RR-3	5 AcresF	300	40	30B	30E	30M	14L
SP	10 AcresF	300	40	40	35G	30	20
RP	10 AcresF	300	40	30	30	30M	14L

C-1	20,000	100	30	J	30	30	14L
C-2	20,000	100	30	J	30	30	14L
I	1 Acre	150	40	J	20	K	14
A. Minimum lot size is 10,800 square feet where either municipal water or sewer service is provided to the lot. No more than 30% of the lot area may be covered by buildings. On lots less than 20,000 square feet the setbacks shall be reduced to 25' minimum front, 6' minimum side and 6' minimum rear. The minimum lot width shall remain 100 feet.							
B. An accessory building or structure, measuring from the exterior wall, may be located 6 feet from a side lot line, however in no case shall its eave be closer than 5 feet to the side lot line.							
C. An accessory building or structure, measuring from the exterior wall, may be located 6 feet from a rear lot line, however in no case shall its eave be closer than 5 feet to the rear lot line.							
D. An accessory building or structure shall not exceed 18 feet in height.							
D1. An accessory building or structure shall not exceed 18 feet in height where the property abuts a watercourse or a body of water.							
E. An accessory building or structure may be located 20 feet from a rear lot line.							
F. For unplatted lots of large lot size (5 and 10 acres), the determination of a lot size when it adjoins a road shall be made as if the road was part of the lot in question. For example, if a 10 acre parcel fronting on a road loses one-half acre in the road right-of-way, the parcel size is 9.5 acres. However, the lot will still conform to the 10 acre minimum lot size requirement.							
G. Customary accessory buildings or structures may be located 30 feet from a rear (waterside) lot line.							
H. Where the property abuts a watercourse or a body of water, the waterside is the rear lot line.							
I. Where the property abuts a watercourse or body of water, the rear setback shall be 250 feet.							
J. No minimum, however, all structures shall be provided with or otherwise guaranteed, access to their rear yard, with a minimum of 12 feet clear and unobstructed access way or easement which may be provided by an alley. Setbacks from the existing residential parcels shall be: 50 feet for all buildings; 25 feet for driveways, entrances or exits; and 10 feet for all parking areas.							
K. Height of a structure at any point shall not exceed the horizontal distance to any lot line.							
L. All mobile homes shall meet or exceed the 1993 HUD standards for mobile homes.							
M. Agricultural use buildings such as silos, and the like, are exempt from the 30' maximum providing that airport zones are not violated.							
N. See §§ 150.031 and 150.063 regarding airport zoning height regulations.							

(Ord. § 401, passed 9-14-2009; Ord. § 401, passed 11-9-2015)

§ 150.046 DEPTH TO WIDTH RATIO.

Lot width shall be measured at front setback line and shall not include any perimeter encumbrances, easements or other such restrictions the use of which is restricted and non-usable to the owner or occupier of the land in question. The purpose of this provision to obtain the maximum depth of properties in connection with the required maximum depth to width ratio shall be four to one regardless of actual lot size.

(Ord. § 402, passed 9-14-2009; Ord. § 402, passed 11-9-2015)

§ 150.047 MINIMUM BUILDING FLOOR AREA.

Every single/two-family dwelling, excluding recreational structures, shall have a floor area of not less than 840 square feet, exclusive of basements, garages, porches and breezeways. Every unit in a multiple family dwelling shall have a minimum floor area of at least 500 square feet.

(Ord. § 403, passed 9-14-2009; Ord. § 403, passed 11-9-2015)

§ 150.048 ACCESSORY BUILDINGS AND USES.

Where a lot is devoted to a permitted principal use, customary accessory uses and buildings are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

(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 chapter 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 space.

(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) The floor area of accessory buildings located within Districts R-1, RR-1, RR-2 and SP, shall not exceed the ground floor area of the main building, except that in the case of lots or parcels of five acres or more in size, the total floor area of accessory buildings shall not exceed twice the ground floor area of the main building. Zoning certificates are required for sheds and accessory structures above 192 square feet.

(D) In the R-1, RR-1, RR-2, RR-3 and SP Districts a detached accessory building shall meet the front setback line of the principal building. Accessory buildings are permitted to be located in the front yard within Districts RP, C-1, C-2, and I.

(E) A semi-trailer, mobile home, travel trailer or other recreational vehicle shall not be used as a storage facility in R-1, RR-1, RR-2, RR-3, SP and RP Districts, except on a temporary basis during a construction period.

(F) Uncovered porches, an open unenclosed and uncovered porch or deck, may project into a front yard for a distance not exceeding ten feet, but in no case shall it be closer than 20 feet to the front property line.

(Ord. passed 5-28-2002; Ord. § 404, passed 9-14-2009; Ord. § 404, passed 11-9-2015)

§ 150.049 HOME OCCUPATIONS.

Customary home occupations, including the provision of instruction in a craft or fine art, are authorized upon application for and issuance of a conditional use permit as provided for in §§ 150.125 through 150.140.16. In addition, home occupations shall meet the terms as identified below.

(A) *Within Districts R-1, RR-1, RR-2, RR-3 and SP.*

(1) Home occupations shall be located within the principal dwelling unit. The use of the dwelling units for home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants. Such home occupation shall not use more than 25% of the floor area of the dwelling for the conduct of a home occupation.

(2) Home occupations shall employ only those members of the family residing on the premises and not more than one outside employee.

(3) There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign.

(4) Specifically excluded are the storage, display and sale of merchandise not produced by such home occupations.

(5) No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the requirements of this chapter.

(6) No equipment or processes 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 causes fluctuations in line voltage off the premises.

(7) A sign advertising the home occupation shall not exceed six square feet and shall not be illuminated or have working parts and shall not interfere with vision of persons exiting the building.

(B) *Within Districts RP.*

(1) Home occupations shall employ only those members of the family residing on the premises and not more than one outside employee.

(2) There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign.

(3) Specifically excluded are the storage, display and sale of merchandise not produced by such home occupations.

(4) If the home occupation is conducted in an accessory building, it shall not exceed 14 feet in height, and shall occupy not more than 300 square feet of said accessory building.

(5) No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the requirements of the chapter.

(6) The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and if such home occupation is conducted in the principal dwelling, not more than 25% of the floor area of the dwelling shall be used in the conduct of home occupation.

(7) No equipment or processes 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 causes fluctuations in line voltage off the premises.

(8) A sign advertising the home occupation shall not exceed six square feet (2' x 3' or 1' x 6') and shall not be illuminated or have working parts.

(Ord. § 405, passed 9-14-2009; Ord. § 405, passed 11-9-2015)

§ 150.050 ONE PRINCIPAL STRUCTURE OR USE PER LOT.

No more than one principal structure or use may be permitted on a lot, unless specifically provided for elsewhere in this chapter.

(Ord. § 406, passed 9-14-2009; Ord. § 406, passed 11-9-2015)

§ 150.051 VARIANCE OF REQUIREMENTS FOR LOTS OF RECORD.

Minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as a lot in a map recorded with the County Register of Deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a Notary Public, prior to the effective date of this chapter, and which lot actually exists as shown or described. No vested right shall arise to the property owner for any parcel created in violation of any preceding Breitung Township Zoning Ordinance.

(A) Allocation and reduction of lot area.

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

(2) No setback area or lot existing at the time of adoption of this chapter shall be reduced in dimensions or area below the minimum requirements. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established herein.

(B) Height requirement exceptions. The following are exempted from height limit requirements unless restricted elsewhere in this chapter, provided that no portion of the excepted structure may be used for human occupancy:

(1) Those purely ornamental in purpose such as church spires, belfries, domes, ornamental towers, flagpoles and monuments;

(2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, radio towers, television antennas and satellite dishes, wire transmission structures, and cooling towers;

(3) Public utility structures; and

(4) Agriculture related structures such as barns, silos, elevators and the like.

(C) Access through yards. Access drives may be placed in the required front, side or rear yards so as to provide access to 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.

(Ord. § 407, passed 9-14-2009; Ord. § 407, passed 11-9-2015)

§ 150.052 USE OF YARD OR OPEN SPACE.

In a residential district it is prohibited to use the open space surrounding a dwelling for the open air parking, disposition, storage, wrecking, dismantling, accumulation or abandonment, either temporary or otherwise, of disused, discarded, worn out, wrecked, or dismantled vehicles, machinery, implements, furniture, appliances, equipment, or any other personal property.

(Ord. § 408, passed 9-14-2009; Ord. § 408, passed 11-9-2015)

§ 150.053 OFF-STREET PARKING REQUIREMENTS.

(A) Off-street parking shall be provided for motor vehicles, and the minimum number of parking spaces to be provided is shown in the following list. These parking spaces must be located to assure clear vision areas at street intersections and be located in a manner that will not create a traffic problem.

<i>Parking Requirements</i>	
<i>Land Use</i>	<i>Space Required</i>
<i>Parking Requirements</i>	
<i>Land Use</i>	<i>Space Required</i>
Single and two family dwelling, recreational structures	2 per dwelling unit

Rooming houses, fraternities, sororities, dormitories, convalescent homes and housing for the elderly	0.4 times maximum lawful number of occupants
Hotels and motels	1.2 per room in addition to spaces required for restaurant facilities
Apartments and townhouses	2 per dwelling unit
Churches, theaters, facilities for spectator sports, auditoriums, concert halls	0.35 times the seating capacity
Golf courses	7 per hole
Barber shops and beauty parlors	2 plus 1.5 per chair
Bowling alleys	5 per lane in addition to spaces required for restaurant facilities
Day-care centers	2 per dwelling unit plus 1 additional space per 5 children of licensed authorized capacity
Fast food take-out establishments, drive-in restaurants	1 per 150 square feet of floor space plus 1 space per 2 employees per shift, plus a minimum of spaces stacking capacity if a drive thru exists
Restaurants (except drive-ins)	1 per 150 square feet of floor space plus 1 space per 2 employees per shift
Furniture and appliance stores	1 per 300 square feet of floor space
Household equipment, carpet and hardware stores, repair shops including shoe repair, contractor's showrooms and other, museums and galleries	1 per 200 square feet of floor space
Funeral parlors	1 per 50 square feet of floor space
Gas stations	1 per pump, plus 2 per lift (in addition to parking places adjacent to pumps)
Automotive service centers	1 per employee plus 2 per service bay
Laundromats	1 per washing machine
Doctor's and dentist's offices	1 per 100 square feet of waiting room area and 1 per doctor or dentist
Banks	1 per 300 square feet of floor space
Warehouses	1 per 1,500 square feet of floor space or 1 per employee at peak shift, whichever is greater
Retail stores and service	1 per 200 square feet of floor space and outdoor sales space
Offices	1 per 300 square feet of floor space
Other businesses and industrial uses	0.75 times the maximum number of employees on the premises at any one time

(B) Where calculation in accordance with the foregoing lists results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

(C) Required off-street parking shall be provided on the lot or adjacent to which it pertains.

(D) The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.

(E) *Handicapped parking.* No individual, co-partnership, association or corporation, or their lessees, agents or assigns, shall operate or maintain a parking area or a shopping center parking area unless that parking area provides spaces specifically designated for disabled persons in compliance with the state construction code promulgated pursuant to Public Act No. 230 of 1972 (M.C.L.A. §§ 125.1501 *et seq.*), as required by section 2 of Public Act No. 1 of 1966 (M.C.L.A. § 125.1352).

(Ord. § 409, passed 9-14-2009; Ord. § 409, passed 11-9-2015)

§ 150.054 REQUIRED PLANTING SCREENS.

In Districts General Retail (C-1), Commercial/Light Industrial (C-2), and Industrial (I), wherever any parking lot, trash collection, outdoor storage, merchandising, or service area lies within 50 feet of

any Residential (R-1), Rural Residential (RR-1 or RR-2) or Scenic Preservation (SP) Districts, or adjoins a residential

dwelling within the C-1, C-2, or I Districts, a screen of vegetation or opaque fencing shall be required except where the view is blocked by a change in grade or other natural or man-made features.

(Ord. § 410, passed 9-14-2009; Ord. § 410, passed 11-9-2015)

§ 150.055 PLANTING SCREEN SPECIFICATIONS.

All planting screens required by this chapter shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition and so pruned as to provide maximum opacity from the ground to a height of five feet.

(Ord. § 411, passed 9-14-2009; Ord. § 411, passed 11-9-2015)

§ 150.056 PARKING LOT PLANTING.

Off-street parking areas containing ten or more parking spaces shall be provided with landscaping in accordance with the following regulations:

(A) The parking area shall have a minimum of 30% landscaped green space, exclusive of fire lanes and traffic ways. Landscaped green space shall be deemed to be at a minimum: lawn, trees or shrubs or a mixture of the three.

(B) Other materials may be substituted with the approval of the Planning Commission or Zoning Administrator.

(C) The following varieties of trees are prohibited in meeting the requirements of this chapter: poplars, willows, American elm, seed-bearing locusts, and box elders. All plant materials shall be kept pruned to maximize visibility through them.

(Ord. § 412, passed 9-14-2009; Ord. § 412, passed 11-9-2015)

§ 150.057 TIME OF COMPLETION.

All plantings required by this chapter shall be installed prior to occupancy or commencement of use. Where compliance is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay. Any zoning compliance permit may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this chapter.

(Ord. § 413, passed 9-14-2009; Ord. § 413, passed 11-9-2015)

§ 150.058 WATERFRONT SETBACK.

(A) All structures on lots abutting any body of water, as defined in Act No. 346 of the Public Acts of 1972, including, but not limited to, inland lakes, rivers, streams, and impoundments, shall maintain a minimum setback of 75 feet in the RR-2 District or 250 feet in the SP District as measured from the river's bank or lake's bluff line.

(B) The part of that setback which lies within 30 feet of the water's edge shall be maintained in its natural condition. Trees and shrubs in a space 50 feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. No change shall be made in its natural grade. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least 15 feet for each 100 square feet of area thereof in wooded areas or sufficient natural ground cover in open areas. All uses shall be subject to this setback except private bathing facilities, saunas, storage sheds, and associated facilities, as permitted within the district, shall maintain a minimum setback of 30 feet as measured from the river's bank or lake's bluff line.

(Ord. § 414, passed 9-14-2009; Ord. § 414, passed 11-9-2015)

§ 150.059 FENCE REGULATIONS.

(A) *Intent and purpose.* It is hereby determined that regulation of the placement, size and construction of fences is necessary to prevent hazards to life and property; protect and preserve the general character of residential neighborhoods and waterfront areas; to ensure the continued attractiveness of the community as a whole; to protect the general health, safety and welfare of the community by preserving visibility for vehicles, pedestrians, and children on our public streets, sidewalks and right-of-ways.

(B) *General regulations.*

(1) *Location.* All fences must be located entirely on the property of the owner constructing them, unless adjoining property owners jointly sign a letter stating the agreement to construct and maintain a fence on the property line.

(a) The owner of a fence or visual screen, consisting of materials requiring painting, staining or other significant periodic maintenance, shall be the responsible for all maintenance of the fence.

(b) No fence shall be permitted to encroach upon a public right-of-way, such as a street or alley.

(c) Hedges or living fences shall be maintained so as not to encroach upon neighboring properties, sidewalks, right-of-ways or hinder the vision of a vehicle driver.

(2) *Materials.* For all fences and walls erected after the effective date of this amendment, the finished face of such fence or wall shall face outside the property, with any visible posts or supports being located inside of the fence or wall.

(3) *Construction sites.* All open excavations, foundations and basements shall be fenced when unattended until filled or completely enclosed.

(4) *Clear vision areas.*

(a) Clear vision areas shall be maintained at all intersections of public roads, alleys and driveways.

(b) Fences and visual screens shall not exceed four feet in height within 25 feet of the intersection of corner lot lines or within 15 feet of a driveway intersection with a lot line to provide visibility for vehicles.

(C) *Zoning district regulations.*

(1) R-1 and RR-1 Zoning Districts.

Maximum Height of Fences in Feet (From Grade)		
Front Yard	Side Yard	Rear Yard
4	6	6

(a) Fences shall not exceed four feet in height within 30 feet of a water body to preserve the visual appearance of the waterfront area.

(b) Fences, within the RR-1 district, for containing horses and livestock that abut a residential property may consist of barbed wire or be electrified, provided obvious and adequate warning signs are placed on the fence.

(2) RR-2, RR-3, RP and SP Zoning Districts.

Maximum Height of Fences in Feet (From Grade)		
Front Yard	Side Yard	Rear Yard
4*	6	6

(a) *Fences enclosing agricultural lands may be six feet.

(b) Fences for containing horses and livestock that abut a residential property may consist of barbed wire or be electrified, provided obvious and adequate warning signs are maintained on the fence.

(3) C-1, C-2, and I Zoning Districts.

Maximum Height of Fences in Feet (From Grade)			
District	Front Yard	Side Yard	Rear Yard
C-1	4	6	6
C-2	6*	8	8
I	8*	8	8

(a) *Fences shall not exceed four feet in height within 25 feet of the intersection of corner lot lines adjacent to a public street to provide visibility at intersections. Fences perpendicular to a driveway shall not exceed three feet in height within 15 feet of the driveway intersection with the lot line.

(b) All non-residential construction sites within 300 feet of a residential dwelling shall be enclosed by a perimeter fence prior to ground breaking to impede unauthorized access to the site.

(c) Barbed wire fencing is allowed in the C-2 and I zoning districts, provided the barbed wire is a minimum of six feet above the ground.

(D) *Construction.*

(1) All fences are to be constructed five feet off of all road and alley rights-of-way to allow for snow plowing.

(2) Fences within or abutting a residential area shall not contain barbed wire, electric current, broken glass, or chain link type fence with the sharp wire edges exposed.

(3) The requirements for swimming pools are outlined in Appendix G of the 2009 Michigan Residential Code, as amended. All swimming pools shall be enclosed by a solid wall or fence, chain link fence or wrought iron fences having vertical bars of at least one-half inch diameter, spaced no farther apart than four inches. No portion of the wall or fence shall

have an open area exceeding four inches vertically or horizontally. The walls or fences shall not be less than five feet nor more than six feet in height. All gates shall have self-latching latches, which shall not be less than four and one-half feet above the ground to be inaccessible to small children from the outside.

(4) A fence shall not be constructed within two feet of an already existing fence on a lot line.

(5) A fence (common fence) may be constructed on a joint property line if both property owners sign a letter stating the agreement.

(6) All fences shall be constructed so that should a fire occur on the premise, firemen shall have access.

(Ord. passed 3-22-1999; Ord. § 418, passed 9-14-2009; Ord. § 415, passed 11-9-2015)

§ 150.060 OPEN SPACE PRESERVATION.

(A) *Intent.* It is the intent of this section to offer an open space preservation option to developers as authorized by Act 177 of 2001 for the purpose of:

(1) Assuring the permanent preservation of open space, agricultural land, and other natural resources;

(2) Allowing innovation and greater flexibility in the design of residential developments;

(3) Encouraging a less sprawling form of development, thus preserving open space.

(B) *Definition.* For the purpose of this section the term **OPEN SPACE** shall refer to a natural state preserving natural resources, natural features, or scenic or wooded conditions; agriculture use; or a similar use of condition.

(C) *Eligibility criteria.* To be eligible for open space preservation consideration, the applicant must present a proposal for residential development that meets each of the following:

(1) *Minimum project size.* The minimum size of an open space preservation development shall be five acres of contiguous land.

(2) *Unified control.* The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.

(3) *Guarantee of open space.* The applicant shall guarantee to the satisfaction of the township Planning Commission that all open space portions of the development will be maintained in the manner approved. Documentation shall be presented that binds all successors and future owners in fee title to commitments set forth in the applicant's proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the township and the land uses continue as approved in the open space preservation site plan.

(D) *Project design standards.* A proposed open space preservation project shall comply with the following project design standards:

(1) The open space preservation option is applicable only in the R-1, RR-1, RR-2, RR-3, SP and RP districts.

(2) The open space preservation option is restricted to residential development.

(3) Unless specifically waived or modified by the Planning Commission, and excepting the minimum lot area, lot size may be reduced up to 50% of the required lot size and lot width may be reduced up to 33% of the required lot width in the zoning district, all Zoning Ordinance dimensional requirements for the underlying zoning district and other township regulations shall remain in full force.

(4) The developer shall maintain a minimum of 50% of the gross area of the site as dedicated open space. Land dedicated for open space does not include a golf course, street rights-of-ways, or submerged land areas but may include a recreational trail, picnic area, children's play area, green way or linear park. The dedicated open space may be, but is not required to be, dedicated to the use of the public.

(5) The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:

(a) Recorded deed restrictions in perpetuity,

(b) Covenants that run perpetually with the land, or

(c) Conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L.A. § 399.21).

(6) Such conveyance shall assure that the open space "will be protected from all forms of development and shall never be changed to another use." Such conveyance shall:

(a) Indicate the proposed allowable use(s) of the dedicated open space.

(b) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.

(c) Provide standards for scheduled maintenance of the open space.

(d) Provide for maintenance to be undertaken by the Township of Breitung in the event that the dedicated open space is inadequately maintained, or is determined by the township to be a public nuisance, with the assessment of costs upon the property owners.

(7) The dedicated open space shall forever remain open space, subject only to uses set forth on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation shall be strictly prohibited.

(8) Accessory structures related to a recreation or conservation use may be erected within the dedicated open space, subject to the approved open space preservation site plan. These accessory structures shall not exceed in the aggregate, 1% of the total required open space area or the maximum size of 1,500 square feet.

(9) The number of dwelling units allowable within an open space preservation project shall be determined in the following manner: The applicant shall prepare and present to the Planning Commission, a design of the area with the same number of dwelling units on a portion of the land as allowed by the zoning district. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed on the property. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the open space preservation project.

(10) To encourage flexibility and creativity consistent with the open space preservation concept, the Planning Commission may grant specific departures from the requirements of the Zoning Ordinance for yard, lot, and bulk standards as a part of the approval process. Any regulatory modification approved by the Planning Commission shall result in a higher quality of development than would be possible using conventional zoning standards. The regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of an open space preservation site plan may be appealed to the Zoning Board of Appeals.

(11) Direct access onto a county road shall be required for all developments receiving approval under the open space preservation option.

(12) Construction of publicly dedicated roads as a means of providing access and circulation is encouraged.

(13) The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space preservation site plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

(14) The dimensions and area of each lot in a residential development may be reduced below the minimums ordinarily required by the zoning district. The overall dwelling unit density and total number of dwelling units in a residential development will not exceed those of a traditional residential development of the same area.

(E) *Project standards.* In considering any application for approval of an open space preservation site plan, the Planning Commission shall make the determination on the basis of the standards for site plan approval set forth in §§ 150.105 through 150.113, Site Plan Review as well as the following standards and requirements:

(1) Compliance with the project design standards in §150.107.

(2) The open space preservation project shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.

(3) The proposed open space preservation project shall be protective of the natural environment.

(4) Compliance with all applicable federal, state, and local regulations.

(5) If municipal water and sewer is not available in the area, a hydrogeological investigation shall be conducted by a licensed engineer. The findings of the investigation shall address soil types, groundwater depth, direction and quality. The investigation shall also address the ability of the development to accept the projected waste loads and protect the groundwater and surface water quality.

(6) A soil erosion and storm water management plan shall be prepared by a licensed engineer. The plan shall address the management of storm water during construction and final design.

(F) *Application and approval process.*

(1) The application for approval of an open space preservation proposal shall be in accordance with procedures for consideration of a conditional use permit. The required materials and fees shall be submitted to the Township Zoning Administrator.

(2) Approval of an open space preservation proposal shall be upon issuance of a conditional use permit. All improvements and uses of the site shall conform to the approved open space preservation site and comply fully with any conditions imposed by the Planning Commission.

(3) The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation site plan unless an amendment is adopted by the Township Planning. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the county and copies of recorded

documents presented to the township.

(4) Following final approval of the open space preservation site plan by the Planning Commission, a zoning compliance permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable township, county, state or federal permits.

(5) If construction has not commenced within 24 months of final approval, all township approvals become null and void. The applicant may make written application to the Planning Commission for an extension, not to exceed 12 months. A maximum of two extensions may be allowed.

(6) The Planning Commission may require that a performance bond be deposited with the township to insure completion of improvements.

(G) *Revision of approved plans.* Minor changes to an approved open space preservation site plan may be permitted by the Planning Commission following normal site plan review procedures outlined in §§ 150.105 through 150.113, subject to the finding of all of the following:

(1) Such changes will not adversely affect the initial basis for granting approval;

(2) Such minor changes will not adversely affect the overall open space in light of the intent and purpose of such development as set forth in this section;

(3) (a) Such changes shall not result in the reduction of open space area as required herein.

(b) Changes which are a substantial departure from the approved site plan or alter the character or intent of the development will require the resubmission of the proposal to the Planning Commission.

(Ord. passed 12-9-2002; Ord. § 420, passed 9-14-2009; Ord. § 416, passed 11-9-2015)

§ 150.061 FEES IN ESCROW FOR PROFESSIONAL REVIEWS.

Any application for rezoning, conditional rezoning, site plan approval, a conditional use permit, planned unit development, variance, or other use or activity requiring a permit under this chapter above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required by either the Zoning Administrator or the Planning Commission for any project which requires a traffic impact study under this chapter (section two or three), or which has more than 20 dwelling units, or more than 20,000 square feet of enclosed space, or which requires more than 20 parking spaces, or which involves surface or below surface mining or disposal of mine materials. An escrow fee may be required to obtain a professional review of any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(A) The escrow shall be used to pay professional review expenses of engineers, attorney fees including fees for preparation of documents, community planners, and any other professionals whose expertise The Charter Township of Breitung values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Planning Commission indicating the extent of conformance or nonconformance with this chapter and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by The Charter Township of Breitung and a copy of the statement of expenses for the professional services rendered, if requested.

(B) No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.

(C) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by The Charter Township of Breitung in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.

(D) Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

(Ord. § 424, passed 9-14-2009; Ord. § 417, passed 11-9-2015)

§ 150.062 CONDOMINIUM DEVELOPMENTS.

The following regulations shall apply to all condominium developments within the township:

(A) *Initial information.* Concurrently with the notice required to be given the township pursuant to § 71 of the Condominium Act, Public Act No. 59 of 1978 (M.C.L.A. § 559.171), a person intending to develop a condominium development shall provide the following information:

(1) The name, address, and telephone number of:

(a) All persons with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).

(b) All engineers, attorneys, architects, or registered land surveyors associated with the project.

(c) The developer or proprietor of the condominium development.

(2) The legal description of the land on which the condominium development will be developed together with appropriate tax identification numbers.

(3) The acreage content of the land on which the condominium development will be developed.

(4) The purpose of the development (for example, residential, commercial, industrial, and the like).

(5) Approximate number of condominium units to be developed on the subject parcel.

(6) Whether or not a community water system is contemplated.

(7) Whether or not a community septic system is contemplated.

(B) *Information to be kept current.* The information shall be furnished to the Township Zoning Administrator and shall be kept updated until such time as a zoning compliance permit has been issued pursuant to § 150.184.

(C) *Site plans for new projects.* Prior to recording of the master deed required by § 72 of Public Act No. 59 of 1978 (M.C.L.A. § 559.172), the condominium development shall undergo site plan review and approval pursuant to §§ 150.105 through 150.113. In addition, the township shall require appropriate engineering plans and inspections prior to the issuance of any certificates of occupancy.

(D) *Site plans for expandable or convertible projects.* Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval pursuant to §§ 150.105 through 150.113.

(E) *Master deed, restrictive covenants and as-built survey.* The condominium development developer or proprietor shall furnish the building official with the following: one copy of the recorded master deed, one copy of all restrictive covenants, and two copies of an as-built survey. The as-built survey shall be reviewed by the township engineer for compliance with township ordinances. Fees for this review shall be established by resolution of the Township Board.

(F) *Monuments.* All condominium developments which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites shall be marked with monuments as provided in this section.

(1) All monuments used shall be made of solid iron or steel bars at least one-half inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.

(2) Monuments shall be located in the ground at all angles in the boundaries of the condominium development, at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development and at the intersection of alleys with the boundaries of the condominium development, at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate traverse line. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the side lines of the streets.

(3) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby, and the precise location thereof shall be clearly indicated on the plans and referenced to the true point.

(4) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half inch in diameter, shall be drilled and grouted into solid rock to a depth of at least eight inches.

(5) All required monuments shall be placed flush with the ground where practicable.

(6) All unit corners and the intersection of all limited common elements and all common elements shall be monumented in the field by iron or steel bars or iron pipe at least 18 inches long and one-half inch in diameter, or other approved markers.

(7) The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the Township Clerk cash or a certified check, or an irrevocable bank letter of credit to the township, whichever the proprietor selects, in an amount to be established by the Township Board by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

(G) *Compliance with federal, state and local law.* All condominium developments shall comply with federal and state statutes and local ordinances.

(H) *Occupancy before installation of improvements.* The Zoning Administrator may allow occupancy of the condominium development before all improvements required by this section are installed, provided that cash, a certified check, or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements

before the expiration of the temporary occupancy permit without expense to the township.

(l) *Single-family detached condominiums.*

(1) Pursuant to authority conferred by § 141 of the Condominium Act, Public Act No. 59 of 1978 (M.C.L.A. § 559.241), all condominium subdivision plans must be approved by the Township Board following review and recommendation for approval by the Planning Commission. In determining whether to recommend a condominium subdivision plan for approval to the Township Board, the Planning Commission shall consult with the Zoning Administrator, township attorney, township engineer, and township planner regarding the adequacy of the master deed, deed restrictions, utility systems and streets, development layout, and design and compliance with all requirements of the Condominium Act, Public Act No. 59 of 1978 (M.C.L.A. §§ 559.101 *et seq.*), and this chapter.

(2) A single-family detached condominium development shall be subject to all of the requirements and standards of the applicable single- or multiple-family residential district or approved planned unit development (PUD) plan.

(3) The design of a single-family detached condominium project shall be subject to the following design layout and engineering standards, except as may otherwise be provided by this section. Streets shall conform to at least all minimum requirements of the general specifications and typical cross sections as set forth in the design layout standards in conditions set forth by the Township Board and the County Road Commission and shall conform to the Access Management requirements of §§ 150.235 through 150.254.

(a) *Location, arrangement and design of streets.*

1. The street layout shall provide for continuation of collector streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided, or conform to a plan for a neighborhood unit drawn up and adopted by the Commission.

2. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.

3. Should a proposed condominium development border on or contain an existing or proposed major thoroughfare, the Commission may require marginal access streets, reverse frontage, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.

4. Should a proposed condominium development border on or contain a railroad, expressway, or other limited access highway right-of-way, the Commission may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of an appropriate use of the intervening land such as for public parks in residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.

5. Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Wherever there exists, adjacent to the tract to be subdivided, a dedicated or platted and recorded half street, the other half shall be platted or otherwise included in the condominium subdivision.

6. Should a proposed condominium development border upon or contain an existing or proposed canal, channel, or drainageway, the Commission may require the location of a bridge facility suitable to permit the unimpeded flow of water and the passage of waterborne vehicles.

(b) *Right-of-way and pavement widths.*

1. Street right-of-way and pavement widths shall conform to at least the following minimum requirements:

Street Type	Right-of-Way Width	Pavement Width
All types of streets	66 feet	24 feet
Culs-de-sac	75-foot radius	45-foot radius

2. On-premise parking shall be provided for each individual dwelling unit.

3. Minimum length for residential cul-de-sac streets shall be 140 feet. Maximum length for residential cul-de-sac streets shall be 500 feet.

4. Access to streets across all ditches shall be provided by the proprietor with the County Road Commission's specifications and procedures for driveway installation.

(c) *Easements.*

1. Location of utility line easements shall be provided as necessary for utility lines. Such easements shall be a total of not less than 12 feet wide, six feet from each parcel.

2. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the proposed

condominium development plan to all appropriate public utility agencies.

3. Easements six feet in width, three feet from each parcel, shall be provided where needed, alongside condominium unit boundary lines so as to provide for streetlight dropouts. Prior to the approval of the condominium subdivision plan, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific condominium unit boundaries. A notation shall be made on the condominium subdivision plan indicating: "The side boundary lines between condominium units (indicating building envelope numbers) are subject to streetlight dropout rights granted to the (name of utility company)."

(4) *Condominium units.* Condominium units within detached condominium developments shall conform to the following standards:

(a) Condominium units situated on corners in residential subdivisions shall be at least ten feet wider than the minimum width permitted by this chapter.

(b) Excessive condominium unit depth in relation to width shall be avoided. A depth-to-width ratio of 3:1 shall be considered a maximum.

(c) Every condominium unit shall front or abut on a street.

(d) Side condominium unit lines shall be at right angles or radial to the street lines.

(e) Condominium units abutting major thoroughfares or collector streets, where marginal access streets are not desirable or possible to attain, shall be situated with reverse frontage condominium units, or with side condominium unit lines parallel to the major traffic streets.

(f) Condominium units shall have a front-to-front relationship across all streets where possible.

(g) Where condominium units border upon bodies of water, the front yard may be designated as the waterfront side of such condominium unit provided the building envelope has sufficient depth to provide adequate setback on the street side to maintain a setback for all structures equal to the front setback on the street side as well as on the waterfront side.

(5) *Blocks.*

(a) Maximum length for blocks shall not exceed 1,300 feet in length, except where, in the opinion of the Planning Commission, conditions may justify a greater distance.

(b) Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.

(6) *Natural features.* The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, watercourses, and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.

(7) *Walkways.* Walkways shall be installed in all single-family detached condominium developments. Such walkways shall be a minimum of five feet in width along both sides of collector and minor streets and six feet in width along all major thoroughfares. Access to all general common areas shall be provided. Upon review of the site plan, the Planning Commission may approve alternate locations for the walkways or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation.

(8) *Street trees and landscaping.*

(a) Street trees shall be provided in the ratio of at least one per dwelling unit, shall be placed along the right-of-way, and shall not be less than eight feet in height.

(b) The following trees are prohibited:

1. Box Elder.
2. Soft maples (Red, Silver).
3. Elms.
4. Poplars.
5. Willows.
6. Horse Chestnut (nut bearing).
7. Tree of Heaven.
8. Catalpa.

(c) All unimproved surface area of the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape materials, except that patios, terraces, decks, and similar site features may be allowed.

(9) *Utilities.*

(a) An adequate storm drainage system including necessary storm sewers, catch basins, manholes, culverts, bridges, and other appurtenances shall be required in all developments.

(b) A sewage disposal system shall be required as regulated by the Dickinson-Iron Health Department.

(c) A water supply system shall be required as regulated by Dickinson-Iron Health Department.

(d) The proprietor shall make arrangements for all lines for telephone, electric, television, and other similar services distributed by wire or cable to be placed underground entirely throughout the development area, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways; provided that overhead lines may be permitted upon written recommendation of the township engineer and the approval of the Planning Commission at the time of site plan approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design, and character of the development. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the State Public Service Commission. All drainage and underground utility installations which traverse privately held property shall be protected by easements granted by the proprietor.

(10) *Final documents to be provided.* After submittal of the condominium plan and bylaws as part of the master deed, the proprietor shall furnish to the township a copy of the site plan on a Mylar sheet of at least 13 inches by 16 inches with an image not to exceed 10-1/2 inches by 14 inches. A digital copy may also be provided.

(Ord. § 418, passed 11-9-2015)

§ 150.063 AIRPORT ZONING REQUIREMENTS.

When an Airport Approach and Take-off Plan is prepared or revised for the Ford Airport (or any other public airport that has filed its airport layout plan or airport approach plan with the township), it shall be made a part of this chapter. It shall govern the heights of all building structures, trees and the land, building and structural uses and activities located upon all lots and parcels affected by the Airport Approach and Take-off Plan which would obstruct the air space required for the safe flight of aircraft on landing or taking off at the airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft as determined by the Michigan Aeronautics Commission. See § 150.031, District AOZ, Airport Overlay District.

(Ord. § 419, passed 11-9-2015)

§ 150.064 EXTERIOR LIGHTING.

All lighting for parking areas or for the external illumination of buildings or grounds shall be directed away from and shall be shielded from adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares. Lighting standards shall not exceed the maximum height limitations established for each use district as set forth in § 150.045.

(Ord. § 420, passed 11-9-2015)

§ 150.065 HOBBY FARMS.

(A) The hobby farm is a permitted use in the RR-1, RR-2, RR-3 and RP districts subject to the following requirements.

(B) A hobby farm is the keeping of livestock animals that is accessory to a dwelling on non-farm lots or parcels outside of an existing residential plat, subdivision, and condominium development, unless such development is originally designed to provide for said accessory hobby farms as provided herein.

(C) Raising of hobby animals (but not including feedlots) on parcels of land less than ten acres in area shall be limited to one animal unit (all other animal types not in the table below are to be calculated as 1,000 pounds live weight equals one animal unit) for the first five acres (see rationale below), plus one additional animal unit for each two additional acres as further defined below. Such use shall be accessory to an existing residential dwelling located on the same lot or parcel. Animals kept for a bona fide youth club or class project are included under this permitted use.

(D) All hobby animals shall be kept within a fenced enclosure or other appropriate barrier sufficient to contain hobby animals on the premises. No animal buildings, pens, concentrated keeping of animals, or collected storage or piling of animal waste materials (manure) shall be located closer than 50 feet from any abutting property line, except that hobby animal paddocks (see definition below) may extend to a fence at the established property line. All hobby animals or animal buildings and enclosures shall be kept in a well-maintained condition, and waste materials shall not create a health hazard or an animal nuisance. Storage or piling of waste materials shall be confined to areas where hobby animal buildings, quarters, and pens are permitted and also away from wells, water bodies, and drainage ways. Notwithstanding the below table, offspring of said hobby animals may be kept on the premises for the time period which is customary for the species involved. A plot plan only (not a full site plan) is required for this use (see § 150.107).

(E) On five to 6.99, seven to 8.99, or nine to 9.99 acre parcels the following numbers of hobby animals, measured in numbers equal (equivalent) to one animal unit, shall be allowed. A mix of animals may be permitted, but in total only one, two or three animal units respectively are allowed in accordance with the land area.

Number of Hobby Animals Allowed On			
Type of Hobby Animal	5-6.99 Acres	7-8.99 Acres	9-9.99 Acres
Number of Hobby Animals Allowed On			
Type of Hobby Animal	5-6.99 Acres	7-8.99 Acres	9-9.99 Acres
Cattle (slaughter & feeder)	1	2	3
EQUIVALENTS ²			
Horse	-	1	2
Mature Dairy cattle (milked or dry)	-	1	2
Swine ³	2	5	7
Sheep, lambs, goats	10	20	30
Turkeys	30	60	90
Laying hens	30	60	90
Ducks	5	10	15
Ostrich, emu, llama, & alpaca	2	4	6
2 The animal equivalents shown here are based on U.S. Code of Federal Regulations, 40 C.F.R. 122, Appendix B (§ 122.23)			
3 Each weighing over 25 kilograms, approx. 55 lbs.			

(F) Rationale for the five acre minimum is based on the following premise;

- (1) One-quarter (1/4) acre needed for the dwelling site and well.
- (2) Two and one-half (2.5) acres needed for septic tank and first drain field.
- (3) Two and one-half (2.5) acres needed for a replacement (2nd) drain field.

(G) *Paddock defined.* A fenced in or otherwise contained area for hobby animals to roam, exercise, browse, and/or otherwise behave normally in accordance with the species characteristics. The paddock will have at least 80% vegetative cover (grass, clover, and the like), unless the specific species contained therein dictates a different, more appropriate natural environment.

(Ord. § 421, passed 11-9-2015)

SIGNS

§ 150.080 INTENT.

It is hereby determined that regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among businesses for attention, to prevent hazards of life and property, and to assure the continued attractiveness of the community and protect property values. It is further determined that signs which may lawfully be erected and maintained under the provisions of this chapter are consistent with customary usage, and that signs which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage, are an abuse thereof, and are unwarranted invasions of the rights of legitimate business interests and of the public.

(Ord. § 501, passed 9-14-2009)

§ 150.081 RESIDENTIAL DISTRICT REGULATIONS FOR SIGNS.

Within the R-1, RR-1, RR-2, RR-3, LS/R, RP and SP Districts, signs shall be permitted as follows:

- (A) One sign not to exceed six square feet to announce the sale or rent of property.
- (B) Churches shall be permitted a total sign area of 20 square feet. The total sign area may be divided into two signs: one identification sign and one bulletin board.
- (C) One sign per vehicle entrance not to exceed 32 square feet and eight feet in height above grade which identifies a platted subdivision development or mobile home park.
- (D) Multiple dwellings and nursing homes shall be permitted one identification sign not to exceed 12 square feet and eight feet in height above grade.
- (E) One sign, not to exceed six square feet, shall be permitted to advertise a home occupation. The sign shall not be

illuminated nor have working parts. It may be attached flush to the building or placed to the front of the lot or parcel and shall not detract from the visual appearance of the neighborhood.

(F) Signs permitted by this section are exempt from the setback requirements of §150.045. Signs, however, shall not be located on the right-of-way and shall not interfere with traffic visibility.

(Ord. § 502, passed 9-14-2009)

§ 150.082 GENERAL RETAIL AND COMMERCIAL/LIGHT INDUSTRIAL DISTRICT SIGN REGULATIONS.

(A) Signs are permitted in the General Retail (C-1) and Commercial/Light Industrial (C-2) District on parcels that are already developed. Monument signs are permitted having an area not exceeding six square feet for each ten feet or fraction of frontage, or 60 square feet for each acre or fraction of area of the developed premises, whichever is larger. There shall be a maximum of 100 square feet of sign area for each developed parcel.

(B) Where a premise has more than one occupant, the permitted sign area shall be divided among them in the same proportion as floor space and outdoor sales as occupied by them. Where a premise has more than two occupants and has a name distinct from that of the occupants, as in a shopping center, shopping mall or strip mall, an additional two square feet of sign area for each ten feet or fraction of street frontage, with a maximum to 200 square feet, is permitted only for signs identifying the developed premises.

(C) In lieu of a monument sign, a pole or pylon sign is permitted with having an area not exceeding six square feet for each ten feet or fraction of frontage, or 60 square feet for each acre or fraction of area of the developed premises, whichever is larger. There shall be a maximum of 200 square feet of sign area for each developed parcel.

(D) When calculating the maximum square footage permitted per business for signage, building signs shall not be included.

(E) Signs shall be subject to the following setback requirements: minimum of five feet setback when the right-of-way width from the centerline of the road to the property line is less than 50 feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than 50 feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. Signs shall be subject to the height regulations for the General Retail and Commercial/Light Industrial Districts.

(Ord. § 503, passed 9-14-2009)

§ 150.083 INDUSTRIAL DISTRICT SIGN REGULATIONS.

In the Industrial District, on-premise signs are permitted having a sign area not exceeding 100 square feet. Off-premise signs/billboards are permitted and shall have a maximum sign area of 300 square feet per sign. Back-to-back signs or signs in a v-type structure shall have a maximum of 300 square feet for each side and shall not be further apart than four feet or the interior angle shall not exceed 20 degrees, whichever is applicable. Individual signs shall be at least 300 feet apart and shall maintain a 40-foot setback. The maximum height for signs in the Industrial District shall be 30 feet.

(Ord. § 504, passed 9-14-2009)

§ 150.084 CONDITIONAL USE SIGN REGULATIONS.

On-premise signs are permitted to identify or advertise an approved conditional use or activity and shall not advertise a specific product not produced on the premises. Signs shall have a maximum sign area of 16 square feet and not exceed eight feet in height above grade. Signs shall be subject to the following setback requirements: minimum of five feet setback when the right-of-way width from the centerline of the road to the property line is less than 50 feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than 50 feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. Sign regulations in this section shall not apply to any conditional use located in the C-1, C-2 or I Districts, or to churches, multiple family dwellings, nursing homes or home occupations which are regulated elsewhere in this section.

(Ord. § 505, passed 9-14-2009)

§ 150.085 TEMPORARY SIGNS.

Signs which are intended to identify or advertise a nonprofit annual or one time event or occurrence, such as a fair or other event of general public interest, shall be authorized by the Zoning Administrator for a period of not more than two months by written permits upon finding that the proposed sign is not contrary to the spirit and purpose of this chapter and shall conform to all size limitations set forth by this chapter. The applicant is responsible for both the erection and removal of all signs. All signs must be removed no later than ten days after the end of the event. Signs shall not be located in the right-of-way or interfere with traffic. Signs mounted on a mobile base shall all conform to setbacks and conform to lighted sign regulations.

(Ord. § 506, passed 9-14-2009)

§ 150.086 CONSTRUCTION SIGNS.

One construction sign is permitted per project not exceeding 16 square feet in sign area for residential districts and 32 square feet for General Retail, Commercial/Light Industrial or Industrial Districts. Signs shall be erected no more than five

days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed prior to occupancy.

(Ord. § 507, passed 9-14-2009)

§ 150.087 EXEMPT SIGNS.

The following signs shall not exceed nine square feet and are otherwise exempt from this chapter:

(A) *Public signs.* Signs of a noncommercial nature and in the public interest, erected by, or on the order of a public officer in the performance of official duty.

(B) *Political signs.* Those signs which are intended to advertise a public election, individual actively participating in such an election, or other public ballot issue, are permitted on private property with the owner's permission. All political signs are authorized only 90 days prior to any election. All political signs must be removed within ten days after the election date and shall not be located on the public right-of-way or interfere with traffic. In the C-1 and C-2 districts political signs shall not exceed 32 square feet.

(C) *No hunting/trespassing signs.* Signs which announce no hunting or no trespassing.

(D) *Farm or farming operation signs.* Signs which identify the name of a farm or farming operation.

(E) *Residential identification signs.* Those signs which have an occupant's name and/or house number.

(Ord. § 508, passed 9-14-2009)

§ 150.088 LIGHTING OF SIGNS.

No lighted signs shall be permitted within the R-1, RR-1, RR-2, RR-3, LS/R, RP or SP Districts. No sign shall be lighted so as to create a traffic hazard or to adversely affect neighboring land uses. No sign may be lighted to such intensity or in such a manner that it creates a public nuisance or adversely affects the public health, safety, or general welfare.

(Ord. § 509, passed 9-14-2009)

§ 150.089 ANIMATED/LED SIGNS.

(A) *Definition. ANIMATED/LED SIGN.* Any sign whereby the information conveyed incorporates or involves action, motion or the appearance or action or motion, such as color changes, scrolling messages or video-like features. Animated signs shall include electronic reader boards in which the message changes more often than once every 24 hours and also includes time/temperature signs.

(B) *Regulations.* Animated/LED signs are permitted in the C-1, C-2 and I districts. Animated/LED signs shall conform to all other sign regulations.

(Ord. § 510, passed 9-14-2009)

§ 150.090 MAINTENANCE OF SIGNS.

Dilapidated sign structures which are likely to cause injury or degrade the surrounding area, and signs which advertise a closed business, past event or political election, are no longer legible, or are otherwise untimely or unsafe, are a nuisance or danger to the public. The Zoning Administrator is authorized to remove, or to have removed, all dangerous or nuisance signs, the cost of which is to be borne by the sign owner and/or property owner.

(Ord. § 511, passed 9-14-2009)

§ 150.091 NONCONFORMING SIGNS.

(A) It is the intent and purpose of this section to eliminate nonconforming signs except as otherwise specifically set forth in this section as rapidly as the police power of the township permits.

(B) No nonconforming sign:

(1) Shall be structurally altered so as to prolong the life of the signs, nor shall the shape, size, type, or design of the sign structure be altered;

(2) Shall be continued after the activity, business, or usage to which it relates has been discontinued for 30 days or longer; or

(3) Shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50% of the sign value.

(C) No nonconforming sign may be changed to another nonconforming use.

(D) Nonconforming signs may have their face or message updated but not structurally altered.

(Ord. § 512, passed 9-14-2009)

§ 150.092 PROHIBITED SIGNS.

The following signs are prohibited:

(A) Signs which imitate an official traffic sign or signal which contains the words “stop”, “go”, “slow”, “caution”, “danger”, “warning”, or similar words.

(B) Signs which are of a size, location, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view and traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.

(C) Unless otherwise provided in this chapter, the maximum size of a sign for a particular use is indicated below:

<i>District</i>	<i>Uses</i>	<i>Max. Size and Number</i>
<i>District</i>	<i>Uses</i>	<i>Max. Size and Number</i>
R-1, RR-1, RR-2, RR-3, LS/R, SP, RP	Sale or rent of property	6 square feet
	Church	20 square feet
	Platted subdivision or mobile home park	32 square feet, 8 feet high, 1 sign per entrance
	Multiple-family dwelling	12 square feet, 8 feet high, 1 sign
	Nursing home	12 square feet, 8 feet high, 1 sign
	Home occupation	6 square feet
	Construction	16 square feet
	Residential identification	9 square feet
	Public sign	9 square feet
	Political sign	9 square feet
	Hunting/trespassing	9 square feet
	Farm	9 square feet
C-1, C-2	Monument sign	6 square feet for each 10 feet of frontage or 60 square feet for each developed acre to a maximum of 100 square feet
	Shopping center/shopping mall/strip mall	8 square feet for each 10 feet of frontage or 60 square feet for each developed acre to a maximum of 200 square feet
	Pole/pylon sign	6 square feet for each 10 feet of frontage or 60 square feet for each developed acre to a maximum of 200 square feet
	Construction	32 square feet
	Residential identification	9 square feet
	Public sign	9 square feet
	Political sign	32 square feet
	Hunting/trespassing	9 square feet
	Farm	9 square feet
I	On-premise sign	100 square feet
	Off-premise sign/billboard	300 square feet
	Back to back signs	300 square feet
	Construction	32 square feet

(Ord. § 513, passed 9-14-2009)

SITE PLAN REVIEW

§ 150.105 INTENT.

It is the purpose of this section to require site plan review approval for all 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 of Breitung; 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 relationship to buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

(Ord. § 601, passed 9-14-2009)

§ 150.106 SITE PLAN REQUIRED.

(A) A site plan is required for and shall accompany the applications for:

(1) Zoning compliance permits for:

- (a) Any proposed construction;
- (b) Any commencement of a new use;
- (c) Any proposed change in use.

(2) Conditional use permit.

(3) Variances.

(4) Nonconforming use designations.

(5) Plats.

(6) Site condos.

(7) Land splits with more than four lots created.

(8) Any other request for zoning status where the Zoning Administrator determines a site plan is necessary for accurate review or documentation of the existing development.

(B) A site plan may be drawn on the application form or on a separate sheet of paper as appropriate to the scale and amount of information shown.

(Ord. § 602, passed 9-14-2009)

§ 150.107 SITE PLANS FOR SINGLE- AND TWO-FAMILY DWELLINGS, AND RESIDENTIAL ACCESSORY USES AND STRUCTURES AND FOR RECREATIONAL STRUCTURES.

The site plan for single and two-family dwellings, residential accessory uses and structures and recreational structures shall show the following information:

(A) Lot corners shall be identified by a registered land surveyor.

(B) A legal description of the site.

(C) Proof of ownership or land conveyance.

(D) All lot lines and dimensions of the lot.

(E) All roads and easements.

(F) All existing and proposed buildings shall be shown and labeled.

(G) Proposed use of each building.

(H) Distances between buildings and all lot lines.

(I) Building dimensions.

(J) Natural features affecting development (rock, water, etc.).

(K) Well and septic locations.

(L) A north arrow.

(M) Front, side and rear elevations.

(N) Any deed restrictions or covenants affecting the proposed plan and future on or off-site development.

(Ord. § 603, passed 9-14-2009)

§ 150.108 SITE PLANS FOR COMMERCIAL, INDUSTRIAL MOBILE/MANUFACTURED HOME PARKS, AND MULTIPLE-FAMILY DEVELOPMENT (ALL OTHER DEVELOPMENT).

Site Plans for all uses and developments except for one- and two-family dwellings, residential accessory uses and

recreational structures shall contain the following information and data. This information shall be provided on two identical copies on one or more sheets.

- (A) Lot corners shall be identified by a registered land surveyor.
- (B) A scale adequate to illustrate the proposed activity.
- (C) A legal description of the lot; the name, address and telephone number of the owner, developer and designer.
- (D) Date, north point, and scale.

(E) The actual dimensions of the proposed developed area (as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with the survey stakes visible) showing the relationship of the subject property to abutting properties.

(F) The location of all existing and proposed structures, including signs, on the subject property and all existing structures on land immediately adjacent to the site within 100 feet of the site's parcel lines.

(G) The location of all existing and proposed drives and parking areas.

(H) The location and right-of-way widths of all abutting streets, alleys, and private easements.

(I) The location of proposed planting and screening, fencing, signs and advertising features.

(J) The height and floor area of all proposed structures.

(K) The size and location of all existing and proposed public and private utilities and required landscaping.

(L) Any other information necessary to establish compliance with this chapter or any other applicable ordinances.

(M) A lighting plan shall be submitted for all uses and developments.

(N) A storm water retention plan shall be submitted for all uses and developments. The storm water retention plan shall meet all applicable Dickinson County Code Commission standards and the standards of any other appropriate agency. The storm water plan shall include, but not be limited to the following:

(1) A standard USGS 7.5-minute topographic map with ten-foot contours which shows the location of the projects area is acceptable. A topographic map with a two-foot contour interval is preferred. The map must also show the location of the property with respect to the street system and other features such as existing and proposed stormwater retention basins.

(2) A drainage easement shall be prepared and recorded for permanent stormwater retention basins.

(O) A colored rendering shall be submitted indicating the proposed exterior color scheme and materials that will be utilized.

(P) Front, side and rear elevations.

(Q) All roads and easements.

(R) Any deed restrictions or covenants affecting the proposed plan and future on or off-site development.

(Ord. § 604, passed 9-14-2009)

§ 150.109 REVIEW PROCEDURES.

Upon receipt of any site plan, the Zoning Administrator shall review it to determine whether it is in proper form, contains all of the required information, shows compliance with this chapter and all other ordinances of the Charter Township of Breitung, and demonstrates the adequacy of utility service. The Zoning Administrator may provide a copy of the site plan to the Drain Commissioner and Health Department. Upon demand by the proposer of the site plan, the Zoning Administrator shall, within ten working days, approve or deny in writing, setting forth in detail their reasons which shall be limited to any defect in form or required information, any violation of any provision of this or any other ordinance, or the inadequacy of any utility, and any changes which would make the plan acceptable. The proposer may appeal any denial to the Township Planning Commission. The Zoning Administrator shall use the following standards in the review.

(Ord. § 605, passed 9-14-2009)

§ 150.110 STANDARDS FOR SITE PLAN APPROVAL.

All approved site plans shall comply with the appropriate zoning district regulations, parking requirements, general provisions and other requirements of this chapter as the apply to the proposed site plan. In addition, each site plan shall comply with the following requirements:

(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 or surrounding property for uses permitted in this chapter.

(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.

(C) Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

(D) The site plan shall provide reasonable visual and auditory 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 group of buildings shall be arranged so as to permit convenient and direct emergency vehicle access.

(F) Every structure or dwelling shall have access to a public street, walkway or other area dedicated to common use.

(G) All loading or unloading and outside storage areas, including areas for storage of trash, which face or are visible from residential properties, abut a residential zone or public thoroughfares, shall be screened by a vertical fence consisting of structural (fence) or plant materials no less than six feet in height.

(H) The site plan shall show the location, height and kind of lighting proposed. Exterior lighting, including parking area lighting, building lighting, and lighting for signs, awnings and canopies, 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.

(I) Plans for private roads shall be included with the site plan.

(Ord. § 606, passed 9-14-2009)

§ 150.111 REQUIREMENTS FOR PRIVATE ROADS.

(A) All lots in all zoning districts shall be located and have frontage on a public road or on a township-approved private road. Any lot of record created before the effective date of this chapter without any frontage on a public street or an approved private road shall not be occupied on a year-round basis without access to a street provided by an easement or other right-of-way not less than 66 feet wide.

(B) A private driveway that accesses a township-approved private road, a county or state road, may service up to four separate parcels. If a private driveway is proposed to serve more than four parcels, then the private driveway must meet the requirements of a private road under this chapter.

(C) All private roads shall meet the standards of a public road as required by the Dickinson County Road Commission. Property owners with lots on existing approved private roads shall be encouraged to improve their roads to meet the Dickinson County Road Commission standards, in order that the road be accepted as a public road and become part of the Dickinson County public road system. A performance bond, in an amount established in the township schedule of fees, will be required to cover the cost of certification by a licensed professional engineer that the private road meets required County Road Commission standards.

(D) Applications for private road approval must be received at least 45 days prior to the meeting date at which said road shall be considered for approval.

(E) Camps and seasonal housing units may be located on private roads and easements created for such use, however, these housing units may not be occupied more than on a seasonal basis. Future access easements should be 66 feet in width to provide for the development of a public road in the future. For the purpose of this covenant seasonal road, private road, right-of-way, easements and/or any unapproved access of 300 feet or more are considered one in the same.

(F) No private road shall be constructed within the township unless it is in compliance with this chapter. Private roads shall not be dedicated to the township and private roads shall not be maintained by the township.

(G) Plans for a private road shall be submitted to the Township Planning Commission along with the site plan for review. Materials submitted with the site plan shall include:

- (1) A legal description and survey of all properties to be served by the private road.
- (2) A legal description and survey of the proposed private road easement.
- (3) Drawing showing the existing and proposed structures, roads, drives, drains and other significant physical features on the property.
- (4) Engineering plans for the proposed private road shall comply with §150.110 of this chapter.
- (5) The construction plans shall including the following drawing: Typical cross section and drainage layout.
- (6) A proposed maintenance agreement.

(H) No private road construction shall begin until the Planning Commission has approved the proposed road by a recorded vote and a permit has been issued by the Zoning Administrator.

(Ord. § 607, passed 9-14-2009)

§ 150.112 MINIMUM DESIGN STANDARDS FOR PRIVATE ROADS.

(A) Preliminary plans, final plans, construction plans and construction methods for a private road shall be designed by a

professional engineer and bear the seal of a professional engineer.

(B) Private roads shall not be named.

(C) All private roads must be completed within one year of approval or the private road will have to be resubmitted for site plan review and approval.

(Ord. § 608, passed 9-14-2009)

§ 150.113 NAMING OF PUBLIC ROADS.

(A) Names of any new public roads shall not duplicate or be so similar either in spelling or phonetics to an existing road, to avoid possible confusion, particularly for emergency service providers.

(B) All new public road names within the township shall be approved by the Planning Commission. (Ord. § 609, passed 9-14-2009)

CONDITIONAL USE PERMITS

§ 150.125 INTENT.

(A) 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 districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility 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, 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.

(B) In order to accomplish such a dual objective, provision is made in this chapter 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 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 conditional uses and may be authorized by the issuance of a conditional use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

(C) The following §§ 150.126 through 150.129, together with previous §§ 150.022 through 150.030, designate what uses require a conditional use permit. With any exception noted, the procedures for obtaining such a permit apply to all conditional uses indicated.

(Ord. § 701, passed 9-14-2009)

§ 150.126 APPLICATION PROCEDURE.

(A) *Any person having an interest may file.* Any person having an interest in a property may file an application for a conditional use permit for the zoning district in which the land is situated.

(B) *Submit applications through Zoning Administrator to Planning Commission.* Applications shall be submitted through the Zoning Administrator 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 one copy of the following information and data:

- (1) Conditional use form supplied by the Zoning Administrator filled out by the applicant.
- (2) Site plan drawn to a readable scale and containing that information specified in §§150.107 and/or 150.108.
- (3) A statement with supporting evidence regarding the required findings specified in §150.128.

(D) *Transmitting copies.* Upon receipt of such materials by the Zoning Administrator, the township shall transmit one copy to the Road Commission, Drain Commissioner, Health Department, and School District, as deemed appropriate, for their review and comment. Each agency shall review the document and forward any comments to the Zoning Administrator. The Zoning Administrator shall transmit a copy of the site plan to the Planning Commission for their review.

(E) *Approval of conditional use permit valid.* Approval of a conditional use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.

(F) *Review of permit when conditions change.* In instances where development authorized by a conditional use permit has essentially changed in nature, extent or character, the Planning Commission shall review the permit in relation to the applicable standards and requirements of the chapter. Upon finding that there has been a violation in the conditions of the

conditional use permit granted under the provisions of this chapter, the Planning Commission may declare the permit null and void.

(G) *Permit to expire if development has not commenced.* If development of a conditional use permit has not commenced within one year from the date of issuance, said permit shall expire automatically. The Planning Commission can approve an extension for one additional year upon request by the applicant.

(Ord. § 702, passed 9-14-2009)

§ 150.127 REVIEW AND FINDINGS.

(A) *Planning Commission public hearing.* The Planning Commission shall conduct a public hearing on the application at a regular or special meeting. The Zoning Administrator shall cause to be published one notice of the public hearing, in accordance of the provisions set forth in § 150.181.

(B) *Planning Commission action.* The Planning Commission shall approve, approve with conditions, or reject the application within 60 days of the hearing based upon materials received and testimony recorded at the public hearing. The Planning Commission shall set forth the reasons for approval, denial, or modification of the conditional use permit application. Following favorable action by the Planning Commission, the Zoning Administrator shall issue a conditional use permit, in accordance with the site plan and any conditions as have been placed on such permit by the Planning Commission. All conditions shall be clearly specified in writing and the petitioner has one year from date of hearing to comply with all specified conditions. Compliance shall occur prior to the commencement of the use, unless a specified time is set in the motion granting the conditional use permit.

(C) *Appeals.* Any appeals concerning an unfavorable action by the Planning Commission shall be made by filing a notice of appeal with the Zoning Administrator pursuant to § 150.205.

(Ord. § 703, passed 9-14-2009)

§ 150.128 GENERAL STANDARDS.

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 policies or with any specific objectives of the comprehensive plan;

(B) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the 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 not result in a decline or erosion of land values, or the value of buildings or structures within the district;

(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, and that the persons or agencies responsible for the establishment 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 person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;

(H) Will protect the public health, safety and general welfare of the community; and

(I) Will be consistent with the intent and purpose of the specific zoning district in which it is located.

(Ord. § 704, passed 9-14-2009)

§ 150.129 CONDITIONS AND SAFEGUARDS.

(A) Prior to granting any conditional use permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the conditional 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 listed in § 150.128 of this chapter and therefore be necessary to meet the intent and purpose of the regulations contained therein.

(B) Conditions and requirements stated as part of a conditional use permit authorization shall be a continuing obligation of land holders. The Zoning Administrator shall make periodic investigations of developments authorized by conditional use permit to determine compliance with all requirements.

(C) Conditional use permits may be issued for time periods as determined by the Planning Commission. Conditional use permits may be renewed in the same manner as originally applied for.

(D) In authorizing a conditional use permit, 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 drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

(E) Revocation of a conditional use permit by the Planning Commission shall be made at a public hearing following the same procedures as original approval to the effect that:

(1) Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or

(2) Violations of conditions pertaining to the granting of the permit continue to exist more than 30 days after an order to correct has been issued. Violations of any conditions set by the Planning Commission are violations of this Zoning Ordinance.

(F) All plans, specifications and statements submitted with the application for a conditional use permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any conditional use permit issued thereto.

(G) No application for a conditional use permit which had been denied wholly or in part by the Planning Commission 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 Planning Commission.

(H) The foregoing general standards are basic to all conditional uses; and the specific requirements accompanying sections relating to particular uses are in addition to and shall be required in all applicable situations.

(Ord. § 705, passed 9-14-2009)

§ 150.130 CEMETERIES.

Cemeteries are a permitted use in the RR-1, RR-2, and RR-3 districts and a conditional use in the R-1 district subject to the requirements of this chapter and the following conditional requirements:

(A) *Maximum area of recorded plots.* The area to be occupied by the cemetery shall not have more than 51% of its land area in recorded plots.

(B) *Continuity of roads.* The continuity of all roads present or planned for adjacent areas shall be satisfactorily resolved to provide safe and prompt access and egress to and from such areas.

(C) *Access to public road.* All ingress and egress shall be directly onto a paved public road having a planned right-of-way of not less than 66 feet on the township's adopted thoroughfare plan or comprehensive plan.

(D) *Screening.* All sides of the cemetery shall be screened from any residential view by providing a continuous and completely obscuring decorative wall or fence not less than four feet six inches in height measured from the surface of the ground. The Township Planning Commission may permit a chain-link type fence, with deciduous or evergreen plant material sufficient to provide a continuous year-round obscuring screen and planned in accordance with § 150.055.

(E) *Drainage.* Approval shall be given contingent on a satisfactory drainage plan approved by the township engineer and the County Health Department.

(Ord. § 706, passed 11-9-2015)

§ 150.131 RELIGIOUS ORGANIZATIONS, INCLUDING CHURCHES (OTHER PLACES OF RELIGIOUS ACTIVITY; SYNAGOGUES, MOSQUES, TEMPLES, AND THE LIKE).

Religious organizations, including Churches are a conditional use in the R-1, RR-1, RR-2, RR-3, and C-1 districts subject to the requirements of this chapter and the following conditional requirements:

(A) *Site requirements.*

(1) The minimum site shall be two acres on a continuous parcel.

(2) The site shall abut a paved public road having a proposed right-of-way of not less than that of a secondary thoroughfare, 66 feet, on the township's adopted thoroughfare plan or comprehensive plan.

(B) *Yard requirements; maximum lot coverage.*

(1) *Front and rear yard.* The front and rear yard requirements shall be the same as those listed for the district in which the conditional land use is requested.

(2) *Side yard.* The side yard requirements shall be the same as those listed in the requested district for permitted nonresidential uses.

(3) *Maximum lot coverage.* The maximum lot coverage shall be the same as for the district in which the conditional land use is requested.

(C) *Off-street parking.*

(1) A facility without fixed seats or pews shall have one parking space for every 100 square feet of usable floor area.

(2) No off-street parking shall be permitted in the front yard space.

(3) All off-street parking shall be paved and constructed to the standards of this chapter.

(Ord. § 707, passed 11-9-2015)

§ 150.132 COMMERCIAL RECREATIONAL FACILITIES.

Commercially used recreational space for adult or children's facilities, including fitness and recreational sports centers (e.g. gymnasiums, handball, racquetball, and tennis courts, ice and roller skating rinks, swimming and wave pools), bowling centers, archery and indoor shooting ranges, billiard or pool parlors, amusement parks, carnivals, rebound tumbling facilities, miniature golf courses, go-cart facilities, and similar facilities are a permitted use in the C-2 district and a conditional use in the RR-3, RP, and C-1 districts subject to the following conditional requirements:

(A) *Lighting.* All lighting shall be shielded from adjacent residential districts.

(B) *Parking areas.* Parking areas shall be provided off the road right-of-way and shall be fenced with a four-foot six-inch wall or fence where adjacent to a residential district or existing residential use.

(C) *Fencing.* Children's amusement parks must be fenced on all sides with four-foot six-inch wall or fence.

(D) *Loudspeakers.* No loudspeaker or public address system shall be used, unless authorized by the Township Planning Commission (as part of the conditional use permit) wherein it is deemed that no public nuisance or disturbance will be established because of the unique locational characteristics of the particular site.

(Ord. § 708, passed 11-9-2015)

§ 150.133 WIRELESS COMMUNICATION FACILITIES AND STRUCTURES.

(A) *Location requirements.* Communications towers are permitted by conditional use permit in the RR-1, RR-2 and RR-3, Residential, RP, Resource Production, C-1, General Retail, C-2, Commercial/Light Industrial, and I, Industrial districts.

(B) *Site requirement.* A minimum site of three acres.

(C) *Buffering requirements.* The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property. The base of the tower and wire/cable supports shall be fenced with a minimum six foot woven fence with three top strands of barbed wire.

(D) *Performance standards.*

(1) The tower shall be located at the height of the tower or more from all property lines and at least 200 feet from any single family dwelling.

(2) All towers shall be equipped with an anti-climbing device and fence to prevent unauthorized access.

(3) A building permit is required for the tower. The tower drawing shall be prepared and stamped by a professional engineer (State of Michigan) to certify that all the support structures meet the wind speeds and icing conditions under the worst conditions for this area.

(4) The communication tower shall meet all the requirements of the FCC and FAA and provide documentation to the staff.

(5) Whenever possible the structure shall be of monopole construction.

(6) Accessory structures are limited to uses associated with operation of the tower.

(7) Free-standing towers in excess of 100 feet in height above grade level shall be prohibited within a two mile radius of a public airport.

(8) All the on-site accessory buildings shall meet all the zoning requirements for building, including height and setback requirements.

(9) Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.

(10) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable local statutes, regulations and standards.

(11) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.

(12) All signal and remote control conductors of low energy extending substantially horizontally above the ground

between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

(13) The tower shall be located, operated and maintained in a manner which does not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.

(14) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.

(15) The base of the tower shall occupy not more than 500 square feet and the top of the tower shall be no larger than the base. Minimum spacing between tower locations shall be one mile measured by a straight line to encourage co-location.

(16) Height of the tower shall be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant, but shall not exceed 300 feet from grade.

(17) Towers shall not be artificially lighted unless required by the Federal Aviation Administration and, if so required, lighting shall be the minimum provided for under the regulations, subject to the township's approval and orientated inward so as not to project onto surrounding property. Strobe lights shall not be used.

(18) Existing on-site vegetation shall be preserved to the maximum extent practicable. Landscaping is required to provide screening and aesthetic enhancement to the base of the structure and accessory buildings.

(19) There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.

(20) The color of the tower shall blend in with the surrounding environment.

(21) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform or the conditional use permit will be subject to revocation by the Township Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

(22) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.

(23) The tower shall be designed to allow for the co-location of additional providers in the future; also, space for police, emergency warning system and fire service antennas at a minimal cost to the community.

(24) Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures and existing wireless communication structures. If a provider fails to or refuses to permit co-location, such a structure shall be a nonconforming structure and shall not be altered or expanded in any way.

(25) In the event the tower is discontinued for 12 months, the tower and all accessories shall be removed within six months. After the complete demolition and removal, the premises shall be restored with six inches of topsoil, seeded and mulched. The applicant will post a bond to the township in the amount of 50% of the construction cost to ensure removal of the tower.

(26) The site shall have legal documented access to a public road.

(27) Dust control shall be maintained on the gravel access road using a non-petroleum based product.

(28) The applicant shall provide a maintenance plan for the tower or a maintenance agreement with a third party, which details a maintenance schedule to ensure the tower and site will be maintained in a neat and orderly fashion.

(29) The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

(Ord. § 709, passed 11-9-2015)

§ 150.134 DISPOSAL AREAS AND LANDFILLS AND HOLDING AREAS FOR INERT MATERIALS.

Disposal areas and landfills are permitted in I, Industrial and RP, Resource Production districts subject to the requirements of this chapter and the following conditional requirements:

(A) *Location and setbacks; access to public road.* The location of all disposal areas within such districts shall be sufficiently distant from preexisting development so as not to be injurious to public health, safety and welfare, and in no instance shall the operation of the landfill be set back less than 500 feet from the road right-of-way and from any residential home, and the side yard setback shall be a minimum of 100 feet from the property line of the landfill. The site shall abut a paved public road having a planned right-of-way of not less than 66 feet as indicated on the township thoroughfare plan or comprehensive plan.

(B) *Operation.* Disposal area activity shall only be allowed as a conditional land use activity within zoning districts specified in this chapter and subject to the provisions of applicable township ordinances and state laws.

(C) *Stock piling of reusable or recyclable materials (used asphalt, concrete, and the like).* Stock piling of inert (as determined by the Michigan DNR) reusable or recyclable materials shall fall under this section.

(D) *Compliance with state law.* All disposal areas and landfills shall further comply with part 115 of Public Act No. 451 of

1994 (M.C.L.A. §§ 324.11501 *et seq.*) and the Dickinson County solid waste management plan.

(Ord. § 710, passed 11-9-2015)

§ 150.135 OUTDOOR WOOD BURNING BOILERS AND APPLIANCES.

(A) Boilers/units and outside wood burning are a conditional use in the RR-1, RR-2, RR-3, Rural Residential, RP, Resource Production, C-1, General Retail, C-2, Commercial/Light Industrial and I, Industrial Zoned Districts. Conditions for approval:

- (1) Lots of 2.5 acres or larger;
- (2) A setback of 75 feet from any and all lot/property lines, easements and right-of-ways;
- (3) Minimum chimney height of 15 feet, measured from grade to chimney top or two feet higher than the nearest neighboring principal dwelling, within 1,000 feet, whichever is higher;
- (4) No fuel other than natural wood without additives, wood pellets without additives and agricultural seeds in their natural state may be burned and no outdoor wood burning boiler or appliance may be used as a waste incinerator;
- (5) Any fuel source other than natural wood without additives, wood pellets without additives and agricultural seeds in their natural state shall require a variance;
- (6) Unit shall not be located in the front yard;
- (7) A grant of zoning compliance permit constitutes an agreement between the land owner and Breitung Township, that the Zoning Administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with above conditions.

(B) *Outdoor storage of wood.*

- (1) The storage of wood shall be adequately secured against rolling or falling and may not be stacked or placed higher than six feet.
- (2) Stored wood must be located in the rear (front for waterfront properties), or side of the property. The stored wood shall not be located within the area of the front setback nor located in front of the principle structure. No wood shall be stored or placed upon any property within ten feet of the shoulder of an alley where there is no public sidewalk.
- (3) On corner lots, no wood shall be stored or placed so as to interfere with the clear vision from a street or alley to an intersecting street or alley. Clear vision shall be maintained at no less than three and one-half feet in height from the grade of the street or alley for a continuous length of 15 feet from the curb or shoulder of the intersecting street.

(Ord. § 711, passed 11-9-2015)

§ 150.136 FABRIC STRUCTURES.

Fabric storage structures as defined in this chapter may be permitted on any lot as an accessory structure, subject to the following conditions for approval:

- (A) A zoning permit is required to allow the erection of a temporary storage structure.
- (B) The maximum size of a temporary storage structure is 192 square feet.
- (C) One temporary storage structure per zoning lot is permitted.
- (D) A temporary storage structure shall comply with setback requirements for accessory structures.
- (E) The structure shall be sufficiently anchored to withstand overturning, uplifting or sliding from a 50 mile per hour wind.
- (F) The structure shall be designed and installed in compliance with the Michigan 2009 Residential Code, as amended or the Michigan 2012 Building Code, as amended.
- (G) The structure shall be properly maintained.

(Ord. § 712, passed 11-9-2015)

§ 150.137 SEXUALLY ORIENTED BUSINESSES.

(A) *Intent and purpose.* The Board of the Charter Township of Breitung acknowledges that there are some uses of land which because of their sexually oriented nature are recognized as having serious unique objectionable characteristics and deleterious and adverse effects and consequences on surrounding properties. Conditional regulation of these sexually oriented businesses is needed to fulfill the goals of the township's Comprehensive Plan to prevent the adverse effects, i.e. blight and urban deterioration, reductions in value of surrounding property, social disorder and crime, the negative effects on community standards for aesthetic values and the township's tax base associated with the location and operation of sexually oriented businesses. The Township Board believes that the purpose and intent of this section will best be accomplished by requiring that sexually oriented businesses may be located only in those areas of the township which are zoned I, Industrial and then only upon the Planning Commission holding a public hearing and issuing a conditional use permit after having

determined that the proposed use meets the requirements of §§ 150.125 through 150.140.16 of this chapter.

(B) *Definitions.*

(1) **SEXUALLY ORIENTED BUSINESS USE.** Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter, actions depicting, describing or presenting "specified sexual activities" or "specified anatomical areas". Sexually oriented business uses shall include but not be limited to the following:

(a) An **ADULT MOTION PICTURE THEATER.** An enclosed building with a capacity of 50 or more persons used for presenting material which has a significant portion of any motion picture or other display, depicting, describing or presenting "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(b) An **ADULT MINI-MOTION PICTURE THEATER.** An enclosed building with a capacity for less than 50 persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting "specified sexual activities" or "specified anatomical areas."

(c) An **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time and where a significant portion of images so displayed depict, describe or relate to "specified sexual activities" or "specified anatomical areas."

(d) An **ADULT BOOK OR SUPPLY STORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE.** A commercial establishment having 10% or more of all usable interior, retail, wholesale or warehouse space devoted to the distribution, display, storage, sale, or rental of any form of sexually explicit materials or adult novelty items. Also, an establishment with a significant portion devoted to the sale or display of sexually explicit materials or adult novelty items.

(e) An **ADULT CABARET.** A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe "specified sexual activities" or "specified anatomical areas."

(f) **ADULT SMOKING OR SEXUAL PARAPHERNALIA STORE.** An establishment having, as a substantial portion of its stock in trade and offers for sale, for any form of consideration, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.

(g) **MASSAGE PARLOR.** An establishment having a substantial portion of its space devoted to massages of the human body or parts thereof by means or pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient. The following uses shall not be included in the definitions of a massage parlor:

1. Establishments which routinely provide such services by a licensed physician, a licensed physician's assistant, a licensed chiropractor, a licensed osteopathy, a licensed physical therapist, a licensed nurse practitioner, a therapeutic massage practitioner as defined in this chapter or any other similarly licensed medical professional;

2. Fitness center;

3. Electrolysis treatment by a licensed operator of electrolysis equipment; and

4. Hospitals, nursing homes, medical clinics or medical offices.

(h) An **ADULT MODEL STUDIO.** Any place where, for any form of consideration or gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona-fide art school or similar educational institution.

(i) An **ADULT PERSONAL SERVICE BUSINESS.** A business having as its principal activity a person, while nude or while displaying "specified anatomical areas", providing personal services for another person. Such businesses include, but are not limited to modeling studios, body painting studios, wrestling studios, and conversational parlors.

(j) An **ADULT SEXUAL ENCOUNTER CENTER.** Any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in "specified sexual activities" or exposing "specified anatomical areas".

(2) **SIGNIFICANT PORTION.** As used in the above definitions, the phrase **SIGNIFICANT PORTION** shall mean and include:

(a) Any one or more portions of the display having continuous duration in excess of five minutes; and/or

(b) The aggregate of portions of the display having a duration equal to 10% or more of the display; and/or

(c) The aggregate of portions of the collection of any materials or exhibits composing the display equal to 10% or more of the display.

(3) **DISPLAY.** As used in the above definitions, the word **DISPLAY** shall mean any single motion or still picture, presentation, dance or exhibition, live act or placing of materials or engaging in activities on or in a newsstand, display rack, window, showcase, display case or similar place so that the material or activity is easily visible to the general population whether for free or otherwise.

(4) **SPECIFIED SEXUAL ACTIVITIES.** As used in the above definitions, the phrase **SPECIFIED SEXUAL ACTIVITIES** shall mean and include:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast; and
- (d) Appearing in a state of nudity.

(5) **SPECIFIED ANATOMICAL AREAS.** As used in the above definitions, the phrase **SPECIFIED ANATOMICAL AREAS** shall mean and include:

(a) Less than completely and opaquely covered: (a) human genitals, pubic region (b) buttocks, and (c) female breast below a point immediately above the top of the areola; and

(b) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

(6) **REGULATED USES.** Those uses and activities which require licenses, approval or permits by township regulations.

(7) **SEXUALLY ORIENTED BUSINESS MERCHANDISE/PRODUCTS.** Sexually oriented business merchandise/products means any book, magazine, periodical, slide, picture, photograph, drawing, sculpture, software, video cassettes or discs, video reproductions, or motion picture film, activity or other printed, electronic recorded or visual representation or image or novelty item which has as a significant portion of its content or exhibit matter of actions depicting, describing, or relating to "specified sexual activities" or "special anatomical areas", such as but not limited to, depiction of uncovered or less than opaquely covered human or animal genitals or pubic areas, human sexual intercourse, human or animal masturbation, oral or anal intercourse, human-animal intercourse, excretory functions, physical stimulation or touching of genitals or pubic areas, or flagellation or torture by or upon a person who is nude or clad in revealing costumes in the context of sexual stimulation. The merchandise/products shall be judged without regard to any covering which may be affixed or printed over the merchandise/products or activity in order to obscure genital areas in a depiction which otherwise would fall within the definitions of this section. Works of artistic, anthropological, scientific, library or medical significance, which taken as a whole have serious literary, artistic, political or scientific value, are not intended to be included within the definitions of this section. This definition is intended to include any merchandise/products which result from any technology, whether that technology is available on the effective date of this amendment or becomes available after that date.

(8) **ADULT NOVELTY ITEMS.** Any object, substance, instrument, paraphernalia, item or devise offered for sale which is distinguished, designed, or characterized by an emphasis on matters relating to "specified sexual activities", or sexual stimulation or arousal of "specified anatomical areas".

(C) *Dispersal regulations.*

(1) No sexually oriented business shall be located within 1,000 feet of any other sexually oriented business or within 1,000 feet of any of the following uses:

- (a) Any Class "C" establishment licensed by the Michigan Liquor Control Commission;
- (b) Pool or billiard halls;
- (c) Coin operated amusement centers;
- (d) Teenage discos or dance halls;
- (e) Ice or roller skating rinks;
- (f) Pawn shops;
- (g) Indoor or drive-in movie theaters;
- (h) Any public park;
- (i) Any church (or other religious site or structure where a person or persons worship or gather);
- (j) Any public or private school having a curriculum including kindergarten or any one or more of the grades one through 12;
- (k) Any child care center or nursery;
- (l) Any adult foster care facility;
- (m) Any senior citizen's center; and
- (n) Any other regulated uses as defined herein.

(2) Such distance shall be measured along the center line of the street or streets or address between two fixed points on the center lines determined by projecting straight lines from the part of the above listed uses nearest to the contemplated location of the structure containing the sexually oriented business and from the contemplated location of the structure containing the sexually oriented business nearest to a use listed above.

(3) *Prohibited zone.* No sexually oriented business shall be located within 1,000 feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the sexually oriented business to a point on the contemplated structure or contemplated location of the structure containing the sexually oriented business nearest to the boundary line of a zoned residential area.

(D) *Age/visibility restrictions.*

(1) No person under 18 years of age shall be permitted to enter any portion of the premises of a sexually oriented business where sexually oriented business products are displayed.

(2) A sexually oriented business which sells or displays videotapes, discs or cassettes of general interest but also has a section or segment of the establishment devoted to the sale or display of sexually oriented business merchandise/products which distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities"; as both are defined herein, shall provide for the display of such materials in a fully enclosed room with solid walls and doors separate from the common area of the premises and which totally obstructs viewing from the outside. The door shall have self-closing mechanism and shall be clearly marked "Adults Only".

(3) All entries, windows and other building openings for a sexually oriented business shall be located, covered, screened in such a manner as to prevent anyone from being able to view or otherwise observe the interior of the sexually oriented business from any vantage point outside of the business.

(E) *Advertising/signage limitations.* Signs advertising sexually oriented businesses and sexually oriented business merchandise/products shall be permitted, subject to the following limitations and restrictions:

(1) Any signs advertising the existence of any sexually oriented business shall not exceed a total aggregate area of 20 square feet;

(2) Any signs, advertisements, displays or any other material promoting sexually oriented business merchandise/products shall not be displayed, shown or exhibited in any manner that allows them to be viewed by the public from any vantage point outside of the business;

(3) Any signs advertising the existence of any sexually oriented business shall not be illuminated by any type of flashing, blinking or strobe lights;

(4) Any signs advertising the existence of any sexually oriented business shall not be located within the public right of way;

(5) Any signs advertising the existence of any sexually oriented business shall not be illuminated or located in any manner which causes it to be a traffic hazard or have a negative or detrimental effect on any surrounding land use; and

(6) Any signs advertising the existence of a sexually oriented business shall only be located on the property for which a conditional use permit to operate a sexually oriented business has been granted.

(Ord. § 713, passed 11-9-2015)

§ 150.138 GENERAL HOSPITALS.

General hospitals are permitted in the C-1, General Retail and C-2, Commercial/Light Industrial districts subject to the requirements of this chapter and the following conditional requirements:

(A) *Site area.* All such hospitals shall be developed on sites consisting of at least five acres in area for the first 100 beds or less plus one acre for each additional 25 beds.

(B) *Access.* The proposed site shall have at least one property line abutting a major thoroughfare and vehicular ingress to and egress from the site shall be directly onto such thoroughfare.

(C) *Traffic safety.* The site plan shall show that a proper relationship exists between the abutting thoroughfare and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.

(D) *Protection of adjacent property.* All the development features, including the principal building and any accessory buildings, open spaces, and all service roads, driveways and parking areas, shall be so located and related to minimize the possibility of any adverse effects upon adjacent property.

(Ord. § 714, passed 11-9-2015)

§ 150.139 GOLF COURSES.

Golf courses are permitted in the RP, Resource Production districts subject to the requirements of this chapter and the following conditional requirements:

(A) *Accessory uses.* Major accessory uses such as a restaurant and bar shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as a maintenance garage and pro shop or golf shop, may be located in separate structures. No structure shall be located closer than 75 feet to the lot line of any adjacent residential land or to any existing or proposed public right-of-way.

(B) *Parking areas.* All parking areas shall be paved and constructed in accordance with the standards of this chapter.

(C) *Access.* All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare (as defined in the township thoroughfare plan).

(D) *Lighting.* All outdoor lighting shall be shielded to reduce glare and arranged so as to reflect the light away from abutting residential areas.

(E) *Swimming pool fencing.* Whenever included, swimming pools shall be provided with a protective fence not less than six feet in height, and entry shall be provided by means of a controlled gate or turnstile.

(Ord. § 715, passed 11-9-2015)

§ 150.140 KENNELS AND VETERINARY CLINICS.

Public, private or commercial kennels may be permitted upon conditional approval in the RP, Resource Production and I, Industrial districts subject to the following conditions. Veterinary clinics may be permitted upon conditional approval in the RR-1, RR-2, RR-3, Rural Residential and C-2, Commercial/Light Industrial districts.

(A) Kennels and veterinary clinics with kennels are located on a continuous parcel of land five acres or more in area.

(B) That no building(s) or runs shall be closer than 100 feet to any abutting property line and all runs or breeding areas shall be enclosed by a chain link fence not less than six feet in height.

(C) For public or commercial kennels, one parking space shall be provided for every five kennel runs. For veterinary clinics parking requirements shall be in accord with those of professional offices of doctors, dentists or similar professions (§ 150.053). All off-street parking shall be paved and constructed to the standards of this chapter.

(D) That the Planning Commission may require adequate means of noise control, including, but not limited to buffering, use of berms, inside night time (also potentially day time) housing of animals, and any other reasonable means to insure adequate protection and enjoyment of neighboring properties. Failure by the developer of a proposed kennel to demonstrate within his or her proposal that adequate means to noise control will be provided, shall be grounds to deny a conditional land use permit.

(Ord. § 716, passed 11-9-2015)

§ 150.140.1 LARGE SCALE RECREATION USES.

Large scale recreation uses, including golf driving ranges, gun clubs, outdoor shooting ranges, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type rides, tracks and other constructed courses for off-road vehicles whether for personal use or public use, (but not including circuses, motorcycle and auto racetracks, and horse or dog tracks) may be permitted in the C-2, Commercial/Light Industrial district as a permitted use and in the RP, Resource Production and I, Industrial districts upon conditional approval subject to the requirements of this chapter and the following conditional requirements:

(A) *Site requirements.*

(1) All approved uses shall be contiguous onto a thoroughfare having a designated right-of-way on the township's adopted thoroughfare plan of not less than 66 feet.

(2) Review of the proposed site plan must show that a proper relationship exists between the major or secondary thoroughfare and all proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.

(B) *Yard and building placement requirements.*

(1) All development features, including the principal building, shall be related to minimize the possibility of any adverse effect upon adjacent property. This shall mean a minimum distance of 200 feet to the property line of abutting residentially zoned lands and public rights-of-way; provided that, where topography conditions are such that the building would be screened from view, this requirement may be modified.

(2) No activity shall take place within 30 feet of the perimeter of the recreation area. All such activities shall be adequately screened from abutting residentially zoned property by means of a protective screening as described in § 150.055.

(3) Related accessory commercial uses may be permitted in conjunction with recreation use when they are clearly incidental to the main recreational character of the use. Such related accessory uses shall not include the sale, servicing, or repair of any vehicles or equipment used on the site except those owned by the proprietor.

(4) Permitted accessory uses which are generally of a commercial nature shall be housed in a single building. Minor accessory uses which are strictly related to the operation of the recreation use itself, such as a maintenance garage, may be

located in a separate building.

(C) *Other requirements.*

(1) *Swimming pool fencing.* Whenever a swimming pool is to be provided, the pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate.

(2) *Gun clubs.* When a gun club is proposed, it shall be clearly established that the activities shall in no way endanger the health, safety or welfare of any persons and will not become a nuisance in any manner whatsoever.

(3) *Off-street parking.* Off-street, paved parking shall be permitted in accordance with this chapter, except that the board of appeals may waive requirements for paved parking areas, maneuvering lanes and drives for campgrounds, parks, riding stables and other recreational uses where, because of their rural or rustic nature, hard-surfaced parking would detract from the nature of the recreational experience.

(Ord. § 717, passed 11-9-2015)

§ 150.140.2 CHILD CARE CENTER (DAY CARE CENTER).

Child care centers, nursery schools, and day nurseries (see definition) may be permitted in the in the R-1, RR-1 and RR-2, Residential districts subject to the following conditional approval requirements:

(A) The child care center shall be licensed by the Michigan Division of Child Day Care Licensing, which includes minimum outdoor play area requirements.

(B) Adequate ingress and egress, parking and circulation shall be provided on the site, including a drop-off/pick-up area for children, outside of any public right-of-way.

(Ord. § 718, passed 11-9-2015)

§ 150.140.3 NURSING HOMES, CONVALESCENT OR REST HOMES, HOMES FOR THE AGED, INDIGENT OR HANDICAPPED AND ORPHANAGES.

A convalescent or rest home, or a home for the aged, indigent or physically handicapped, or an orphanage, is permitted in the C-1, General Retail district subject to the requirements of this chapter and the following conditional requirements:

(A) *Site requirements.*

(1) All ingress and egress shall be directly onto a public road having a planned right-of-way of not less than 66 feet as indicated on the township's adopted thoroughfare plan.

(2) The maximum extent of development shall not exceed 30 children or patients per acre.

(B) *Yard and building placement requirements.* No building other than a structure for strictly residential purposes shall be closer than 60 feet to any property line.

(C) *Off-street parking requirements.*

(1) There shall be one parking space provided for each two beds and every two staff members.

(2) All off-street parking shall be paved and constructed to the standards shown in §150.053.

(Ord. § 719, passed 11-9-2015)

§ 150.140.4 OUTDOOR THEATERS.

Outdoor theaters shall be permitted within I, Industrial Districts and only when the subject site is surrounded by an I, Industrial District. Outdoor theaters shall further be subject to the following conditional requirements:

(A) The proposed internal design shall receive approval from the Zoning Administrator and the township engineer as to adequacy of drainage, lighting, screening and other technical aspects.

(B) Outdoor theaters shall abut directly upon a paved major thoroughfare of not less than 66 feet of right-of-way.

(C) Points of ingress and egress shall be available to the outdoor theater only from abutting paved major thoroughfares of not less than 66 feet of right-of-way width and shall not be available from any residential street.

(D) All vehicles waiting or standing to enter the facility shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.

(E) The area shall be laid out so as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within and directed onto the premises of the outdoor theater site.

(Ord. § 720, passed 11-9-2015)

§ 150.140.5 PUBLIC AND PRIVATE COLLEGES AND UNIVERSITIES.

Public and private colleges and universities and other similar institutions are permitted in the C-1, General Retail, C-2, Commercial/Light Industrial, and I, Industrial districts subject to the requirements of this chapter and the following conditional requirements:

(A) *Site requirements.* All ingress and egress shall be directly onto a paved public road having a planned right-of-way of not less than 66 feet as indicated on the township's adopted thoroughfare plan.

(B) *Yard and building placement requirements.*

(1) No building other than a structure for residential purposes shall be closer than 75 feet to any property line.

(2) Height of residential buildings in excess of the minimum requirements may be allowed provided minimum yard setbacks where yards abut land zoned for residential purposes are increased by not less than 30 feet for each yard, for each 12 feet or fraction thereof by which the building exceeds the maximum height requirements of the zone.

(3) Those buildings to be used for servicing or maintenance, such as heating plants, garages, storage structures and the like, shall not be located on the outer perimeter of the site where abutting property is zoned for residential purposes.

(C) *Off-street parking requirements.*

(1) The quantity of parking spaces shall be such as to adequately service the faculty, students and maintenance staff of the institution and provide parking for access to the public streets.

(2) All off-street parking shall be paved and constructed to the standards of this chapter.

(Ord. § 721, passed 11-9-2015)

§ 150.140.6 RACETRACKS, INCLUDING MIDGET AUTO, MOTORCYCLE, KARTING, SNOWMOBILE AND OTHER MOTOR VEHICLE TRACKS, AND SIMILAR FACILITIES.

Because racetracks, including midget auto, motorcycle, karting, snowmobile, and other motor vehicle tracks, and similar facilities, develop a concentration of vehicular traffic in terms of ingress to and egress from their parking area and cause noise levels, which may project beyond the property so used, they shall be permitted as a conditional use in the I, Industrial District when located adjacent to a paved major thoroughfare and shall be located on a parcel of land that is abutting land zoned for industrial purposes on all sides of the subject parcel, and shall be subject further to the following conditions and such other controls as deemed necessary to promote health, safety and general welfare in the township:

(A) All parking shall be provided as off-street parking within the boundaries of the development.

(B) All access to the parking areas shall be provided from a paved major thoroughfare.

(C) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot greenbelt planting and solid masonry wall so as to obscure from view all activities within the development and to reduce noise. The planting shall be in accordance with § 150.055.

(Ord. § 722, passed 11-9-2015)

§ 150.140.7 OUTDOOR BUSINESS SALES AND STORAGE, INCLUDING MOTOR VEHICLES SALES, MANUFACTURED HOME SALES, RECREATIONAL VEHICLES, TRAVEL TRAILERS AND BOATS INCLUDING BOTH RENTAL AND SALES.

Outdoor business sales and storage, including motor vehicles sales, manufactured home sales, recreational vehicles, travel trailers and boats, including both rental and sales; are permitted uses in the C-2, Commercial/Light Industrial district subject to the below requirements, and upon conditional approval in the C-1, General Retail district subject to the following conditional requirements:

(A) A minimum of 1,500 square feet of lot area is required for each one sale vehicle or other unit.

(B) All lighting shall be shielded from adjacent uses in such a manner that it does not project beyond the property line (See § 150.064).

(C) Ingress to and egress from the site shall be at least 50 feet from a street intersection or adjacent residential district.

(D) When adjacent to R-1, RR-1, RR-2 and RR-3 Residential districts or SP, Scenic Preservation districts, there shall be provided a completely obscuring masonry wall, four feet six inches in height, along the abutting district.

(E) There shall be no strings of flags or bare light bulbs, or flashing illumination or extra non-permitted signage or advertising devices of any kind, anywhere on the site.

(Ord. § 723, passed 11-9-2015)

§ 150.140.8 UTILITY AND PUBLIC SERVICE FACILITIES.

Public utilities buildings, including telephone exchange buildings and repeater stations, electric transformer substations and stations and gas regulator stations (all without storage yards), when operation requirements necessitate the locating within the district in order to serve the immediate area, are permitted in the R-1, RR-1, RR-2 and RR-3 Residential districts and SP, Scenic Preservation districts, subject to the requirements of this chapter and the following conditional conditions:

(A) An obscuring wall or screening shall be provided in accordance with §150.055.

(B) All parking and driveway areas shall be paved.

(Ord. § 724, passed 11-9-2015)

§ 150.140.9 BED AND BREAKFAST ESTABLISHMENTS.

Bed and breakfast establishments may be permitted as a conditional land use in the R-1, Residential, RR-1, RR-2 and RR-3 Rural Residential, SP, Scenic Preservation and RP, Resource Production districts subject to the provisions of this chapter and to the following additional requirements:

(A) The rooms utilized are not specifically constructed for rental purposes. A bed and breakfast establishment shall consist of a single residential structure of at least 2,000 square feet of gross floor area.

(B) Adequate living space must be preserved for the owner/inkeeper quarters; this must include a separate bedroom for owner/inkeeper and bedrooms for other family members residing on the premises.

(C) The establishment shall provide no fewer than two bedrooms nor more than eight bedrooms available for rental.

(D) Rooms for sleeping shall have a minimum size of 90 square feet for single occupancy rooms, 100 square feet for double occupancy rooms, 150 square feet for triple occupancy rooms, and 200 square feet for four person rooms. There shall be a maximum of four occupants per room. Each sleeping room shall have one wall dimension of not less than seven feet in length.

(E) There shall be a minimum of one full bath for every three guest rooms.

(F) One non-illuminated sign is permitted subject to the requirements of §§150.080 through 150.092.

(G) Food may be served only to those persons renting a room and only during their stay.

(H) It is the intent of the township to allow the option of this use (bed and breakfast establishment) as an economic means of preserving structures which are historically or architecturally significant.

Therefore, the structure must be placed on (or be eligible for) the state or national register of historic places. Alternatively, structures may be eligible upon a determination by the Planning Commission that they are significant and authentic residential structures of a period, style, architectural movement, or method of construction, or if they are the most notable work of the best surviving work in a given region of a pioneer architect or master builder, or if they are associated with an individual who had a profound influence on the history of the area, region, or state. Birth place, place of death, or interment shall not be considered unless something of historical importance is connected with his birth or death.

(I) A guest registry shall be maintained and shall be available for inspection by the Zoning Administrator.

(J) Off-street parking shall be provided in accordance with §150.053 requirements for a motel, hotel, or other commercial lodging establishment. Off-street parking, access drives, and maneuvering lanes shall be provided.

(K) The Planning Commission shall consider and determine under the general requirements and procedures (§§150.125 through 150.140.16) for conditional land uses, the degree to which, if any, that the requirements under §§150.128 and 150.129 shall apply.

(Ord. § 725, passed 11-9-2015)

§ 150.140.10 GROUP (CHILD) DAY CARE HOME.

Group day care home with seven to 12 children (as defined under Public Act of 116 of 1973, as amended, see definition) may be permitted as a conditional land use in the R-1, Residential, RR-1, RR-2 and RR-3 Rural Residential, SP, Scenic Preservation and RP, Resource Production districts subject to the requirements of this chapter and the following conditional requirements:

(A) Adequate ingress and egress, parking and circulation shall be provided on the site.

(B) The lot or parcel on which such use is located shall be located no closer than 1,500 feet to any of the following:

(1) Another group day care home.

(2) An adult foster care group home licensed by the Michigan Department of Social Services.

(3) A facility offering substance abuse treatment and rehabilitation service to seven or more persons, licensed by the Michigan Office of Substance Abuse Services.

(4) A community corrections center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

(C) The construction and use shall be licensed by the Michigan Department of Social Services prior to beginning operation, which has minimum regulations and requirement regarding play space.

(Ord. § 726, passed 11-9-2015)

§ 150.140.11 PRIVATE USE LANDING FIELD.

Landing areas for the private use of the property owner are a permitted use in I, Industrial District and may be permitted as a conditional land use in the RR-3, Rural Residential and RP, Resource Production Districts as an accessory use to a single-family dwelling; subject to the following provisions (for both permitted and conditional uses);

(A) Said landing area is subject to all rules and regulations of the Federal Aviation Administration and the Michigan Aeronautics Commission which agencies shall approve the preliminary plans submitted to the township.

(B) No landing area for private use shall be established within five miles of a public use facility certified by the Michigan Aeronautics Commission without approval of said Commission. No landing area for private use shall be established within a two mile radius of another landing area.

(C) All landing areas shall have a minimum runway with an 1,800-foot landing length in each direction from a clear approach slope of 20:1 and a 100-foot usable width with an additional 50-foot minimum width on each side which is free of obstructions. The approach slope with a width of not less than 200 feet shall be based on a clearance of all objects within the approach area, including a roadway clearance of 15 feet or 17 feet over an interstate highway, a railway clearance of 23 feet, and a clearance at the property line of 25 feet. The landing area shall be marked in accordance with Michigan Aeronautical Commission standards.

(D) No landing area shall be approved that would interfere with the right of nearby and adjacent owners and occupants of property to peaceful enjoyment of their property. Adjacent property owners shall not be required under any circumstances to accommodate a proposed private use landing area (e.g. trim or remove trees, limit or remove construction, curtail occupancy, limit or reduce height of structures) beyond those limits and regulations which might normally apply to their property(ies) under this chapter.

(E) *Hazards to navigation.* No obstruction of whatever character, object of natural growth, or use of land, upon the premises of the landing area which prevents the safe use of such facilities for the takeoff or landing of aircraft shall be permitted.

(F) *Yard and placement regulations.*

(1) The site shall not abut directly or across a street a R-1, Residential, RR-1 or RR-2, Rural Residential, or SP, Scenic Preservation district.

(2) Landing areas shall be located on a contiguous parcel of land not less than 25 acres in area. The parcel shall have a width of not less than 450 feet. The parcel shall have a depth of not less than 2,400 feet. It is not required that the necessary clear zones be contained within the site, however, if future development intrudes upon the required clear zones, use of the landing area shall immediately cease, unless adequate and appropriate easements are first obtained and recorded by the private use landing area owner.

(G) In the RR-3, Rural Residential and RP, Resource Production districts, the property owner shall construct a residence within two years or be required to obtain a two year renewable license from the governing township authority.

(H) All lights used for landing areas and other lighting facilities shall be arranged so as not to reflect towards adjoining non-landing area uses.

(I) *Prohibited uses.*

(1) The open storage of junked or wrecked motor vehicles or aircraft shall not be permitted.

(2) Use of a private use landing area is limited solely to the single owner. No commercial activity or operations (such as the sale of gasoline or oil, the soliciting or engaging in charter flying or student instruction, the provision of shelter or the tie-down of an aircraft (except owner's), the overhaul or repair of an aircraft or of engines, or otherwise offering aeronautic facilities or services to the public) shall be permitted on the premises.

(J) Private use helicopter landing fields shall conform to all of the above regulations, except for those regulations intended to clearly apply only to airplane landing areas. Placement and operation of helicopter landing facilities shall otherwise comply with all regulations of the Michigan Aeronautics Commission and the Federal Aeronautics Administration (FAA).

(Ord. § 727, passed 11-9-2015)

§ 150.140.12 FAST FOOD, DRIVE-IN, DRIVE-THROUGH, AND CARRY-OUT RESTAURANTS.

Drive-in, fast food, drive-through or carry-out restaurants may be permitted in the C-1, General Retail and C-2, Commercial/Light Industrial District subject to the following conditional requirements:

(A) Ingress and egress points shall be located at least 30 feet from the intersection of any two streets measured from the intersection of the street right-of-way to the nearest end of the curb radius and shall be directly from a major thoroughfare having an existing or proposed right-of-way of at least 66 feet in width.

(B) The minimum distance of any driveway to the property line shall be seven feet. The minimum distance between driveways on the site shall be 65 feet measured from the two closest driveway curbs or edges of pavement.

(C) When a building or portion of building is used for said purposes, it must be located not less than 500 feet from an elementary, intermediate, or secondary school, and not less than 300 feet from a church, nursing home, or a home for the aged.

(D) Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times, and separated from the paved parking area by a raised curb or other equivalent barrier.

(E) Concrete curbing six inches in height shall be properly placed and maintained along or parallel to all property lines, except where bumper guards are required and except across approved driveways so as to prevent vehicular encroachment onto or over the adjoining property or vehicular damage to buildings.

(F) All outside trash receptacles (except those intended for use by the customer) shall be located within an enclosure, a minimum of six-feet in height, constructed of masonry material and covered with facing material to match the main building and shall be provided with opaque, solid wood gates of the same height. In addition, two trash receptacles for use by the customer shall be placed in a manner reachable by the customers from their car windows at each point where exit drives empty onto a public street; said receptacles shall be emptied as often as is necessary to insure their efficient and continued use by the customer.

(G) For drive-through restaurant facilities an off-street waiting area shall be provided. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their vehicles by means of a service window or similar arrangement, there shall be provided a minimum of six off-street waiting spaces for each service (product delivery) window, which shall not block parking spaces or loading space(s). A waiting space shall be a minimum of 23 feet long by ten feet wide.

(Ord. § 728, passed 11-9-2015)

§ 150.140.13 MOTOR VEHICLE REPAIR AND SERVICE FACILITIES.

Motor vehicle repair and service facilities may be permitted in the C-1, General Retail and C-2, Commercial/Light Industrial Districts, subject to the following conditional requirements:

(A) Activities shall be conducted in an enclosed building.

(B) All buildings shall be set back not less than 40 feet from all existing or planned street right-of-way lines, whichever is greater.

(C) No signs, storage nor display of any kind shall be allowed within the street right-of-way. All signs and display shall be so located as not to obstruct view of drivers in vehicles entering, exiting, or traveling upon a street.

(D) There shall be no outside storage or display of any kind except for the display of new merchandise related to the primary use of the facility and for retail sale during the hours of operation of the facility.

(E) There shall be no outdoor parking of damaged motor vehicles except on a temporary basis. Junk parts and junk vehicles shall not be kept on the outside of the building.

(F) Parking shall be provided on the site at a ratio of one parking space for each 100 square feet of building site area.

(G) Automobile, truck or trailer renting and leasing may be permitted in connection with motor vehicle repair and service facilities subject to the provisions that the number of automobiles, trucks or trailers on site that are available for lease shall not exceed one automobile, truck or trailer for each 1,000 square feet of lot area and shall not be located in areas that are required for parking, aisles, service bays, loading, landscaping or sidewalks.

(H) The parking of tow trucks shall be permitted only in designated areas and shall not be permitted in the corner clearance areas.

(Ord. § 729, passed 11-9-2015)

§ 150.140.14 MOTOR VEHICLE WASHING, CONVEYOR OR NON-CONVEYOR TYPES.

Motor vehicle washing, conveyor or non-conveyor types, may be permitted in the C-1, General Retail and C-2, Commercial/Light Industrial Districts when completely enclosed in a building, except for points of ingress and egress, and subject to the following conditional requirements:

(A) All cleaning operations shall be completely enclosed within a building.

(B) A hard-surfaced driveway of one or more lanes shall be constructed on the parcel in such a manner as to provide for a continuous movement of vehicles into a washrack(s) or washing conveyor line(s).

(C) The driveway so provided shall be not less than ten feet wide for a single lane and not less than ten additional feet in width for each additional lane.

(D) Where only a single lane is provided, it shall be used for no other purpose than to provide access to a wash rack(s) or washing conveyor line. All lanes provided shall be suitably protected from interference by other traffic.

(E) The total length of the required lane or lanes so provided for a conveyor type wash line shall be determined by the overall length of the building, including areas having side walls but no roof. In any building where the washing operation

moves in other than a straight line, the length of the building, for the purposes of this section, shall be the distance measured along the centerline of the conveyor or wash line from the point of entry to the point of exit from the building. The overall length of the required lane or lanes, as measured along the centerline, shall be determined in accordance with the following formula:

Where the building is 80 feet or less in overall length, the total required lanes shall be not less than 400 feet in length. Where the building exceeds 80 feet in length, the length of the required lane or lanes shall be increased 50 feet for each ten feet or fraction thereof by which the building exceeds 80 feet in overall length.

(F) For a non-conveyor type auto wash, five waiting spaces, each 20 feet in length, shall be provided for each washing stall on the entrance side of the stall and two spaces per stall shall be provided on the exit side for a drying area.

(G) The site shall be designed in such manner that no operations are conducted off the parcel.

(H) A building setback of at least 60 feet must be maintained from the planned or existing street right-of-way.

(I) Ingress and egress points shall be located at least 60 feet from the intersection formed by the existing or planned right-of-way lines, whichever is greater, and shall be directly from a major thoroughfare.

(J) The site shall be drained so as to dispose of all surface water in such a way as to preclude drainage of water onto adjacent property.

(K) Gasoline sales may be permitted on the property subject to site plan approval.

(Ord. § 730, passed 11-9-2015)

§ 150.140.15 UTILITY GRID WIND ENERGY SYSTEMS (WIND FARMS).

Intent. A utility grid wind energy system (wind farm) is a wind energy system that is designed and built to provide electricity to the electric utility grid. These wind farms are intended to be so constructed and located to be compatible with other land uses such as timber production, farms and heavy industrial uses, while protecting and being distant from residential developments. An anemometer tower shall abide by the same regulations below for a utility grid wind energy system and shall be removed before a utility grid wind energy system is installed. Utility grid wind energy systems may be permitted as a conditional use in the RP, Resource Production and I, Industrial districts subject to the following conditions:

(A) *Setbacks.* Any towers shall be setback a minimum of one-thousand three-hundred and twenty (1,320') feet from the R-1, Residential One, RR-1, Rural Residential One, RR-2, Rural Residential Two, RR-3, Rural Residential Three and SP, Scenic Preservation districts, and one-thousand feet from any existing off-site residence. Furthermore, the base of any tower shall be setback from the nearest property line, a distance of not less than 1-1/2 times the height of the tower. In addition, no part of the wind energy system, including any guy wire anchors, may extend closer than 40 feet to any property line or existing right-of-way line, unless a plan for location(s) of accessory structures and equipment is presented (including screening) and is approved as part of the site plan. Land included within such minimum setback areas from a property line shall remain undivided and undeveloped with other structures not accessory to the tower.

(B) *Noise.* Sound pressure levels shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus five dB(A).

(C) *Shadow flicker.* Prior to a zoning compliance permit and prior to a building permit being issued, the applicant must demonstrate to the Zoning Administrator that no adverse shadow flicker impact will occur from sunrise to sunset throughout the year on any occupied buildings and lands of adjacent properties. The Zoning Administrator, if in doubt, may refer the matter to the Planning Commission. The Planning Commission may require that the potential of an adverse shadow flicker impact be studied by an independent consultant, knowledgeable on the subject. The study shall recommend one or more means by which the impact(s) (if any) can be avoided (including whether or not to construct) or mitigated. The applicant must deposit in advance sufficient funds with the township to pay for the study.

(D) *Safety.*

(1) *Clearances.* The minimum vertical blade tip clearance from grade shall be 30 feet for a wind energy system employing a horizontal axis rotor. Blade or rotor arc must be demonstrated to be a safe and reasonable distance (at least 20 feet) from any separate building, structure, utility wire, or tree.

(2) *Guy wire visibility.* If a wind energy system tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors.

(3) *Rotor or blade integrity protection.* A wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.

(4) *Lightning.* All wind energy system towers shall have lightning protection.

(E) *Construction codes, towers and interconnection standards.* Wind energy systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems, including towers, shall comply with Federal Aviation Administration requirements, the regulations of the Michigan Aeronautics Commission, and the Michigan Tall Structures Act. If a utility grid wind energy system is attached to a building(s) or structure(s), it must be approved by the county building inspector and must be found to be in accordance with all applicable

state construction and electrical codes.

(F) A utility grid wind energy system (wind farm) may exceed district height limits. Multiple towers are permitted.

(G) *Miscellaneous requirements.*

(1) *Electromagnetic interference.* No wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless telephone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. The applicant shall submit documentation from the manufacturer which demonstrates that the wind energy systems' generation of electromagnetic energy falls within a range that minimizes or eliminates any off-site interference.

(2) *Vibration/enhanced wind currents.* No wind energy system generated vibrations or enhanced wind currents shall be humanly perceptible beyond the property boundaries of the lot or parcel on which the wind energy system is located.

(3) The Manufacturer's Material Safety Data Sheet(s) shall be provided to the township with the application. Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

(4) The applicant shall provide documentation that the Dickinson County Road Commission has been contacted, and if required, that a performance bond has been posted (or other measures have been taken) for the protection and/or restoration of all roads over which heavy equipment or materials will be transported.

(H) *Decommissioning.* The utility grid wind energy system (wind farm) and all appurtenances thereto shall be removed from the site within one year after the wind energy system is no longer in use (not generating any electricity for over 12 continuous months). The owner of the land upon which the system is located shall be held responsible for such removal by the township. Therefore the land owner may want to be sure to make said removal by the wind energy company a requirement of their lease. A wind energy system which is not so removed shall constitute a public nuisance per se. The applicant shall post a bond (cash or irrevocable bank letter of credit) with the township in an amount sufficient for the removal of the utility grid wind energy system (wind farm) including all accessory buildings and structures, clean-up of site including removal of the foundations and restoration of the site to a condition equal to or better than that which existed prior to the installation of the system.

(I) A developer may seek Planning Commission approval of a utility grid wind energy system (wind farm) incorporating a block of or group of properties under multiple, separate ownerships provided;

(1) That all of the above regulations divisions (A) - (H) still apply, but to the whole rather than individual properties;

(2) That a written agreement among the participating property owners has been signed and recorded at the County Register of Deeds; and

(3) That the proposal does not leave one or more non-participating properties surrounded or otherwise isolated.

(Ord. § 731, passed 11-9-2015)

§ 150.140.16 MINERAL EXTRACTION.

All uses in the RP, Resource Production district are on notice that earth removal, quarrying, gravel processing, and mining, as regulated in this chapter, may be permitted anywhere within this district with a conditional use permit. Specific performance standards for earth removal, quarrying, gravel processing, and mining operations are as follows:

(A) Maximum depth of excavation shall not be below existing groundwater table.

(B) Where necessary the Commission may require the applicant to construct or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the deterioration of existing roads which are not "all weather" roads. All access roads shall be considered part of the mining operation.

(C) *Setbacks.*

(1) All mining operations shall be a minimum of 90 feet from any public right-of-way, not including ingress and egress roads.

(2) All mining operations shall be a minimum of 550 feet from any lake, stream or wetland.

(3) All mining operations and all ingress and egress roads shall be a minimum of 90 feet from any other property line.

(4) All mining operations shall be a minimum of 500 feet from any church or public park.

(5) All mining operations shall be a minimum of 1,000 feet from any school, hospital or nursing home.

(6) All mining operations and all ingress and egress roads shall be a minimum of 300 feet from an existing house on an adjacent property.

(7) All ingress and egress roads shall be by the most direct route to a public right-of-way.

(8) All ingress and egress roads will require a legal driveway permit.

(D) Any on-site permanent processing plant shall not be located closer than 300 feet from any property line and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impacts.

(E) (1) Sight barriers shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed which lack natural screening conditions through existing vegetative growth. The following minimum standards shall apply:

(2) A continuous screen at least six feet in height is required to provide maximum screening of the site.

(a) This landscape buffer may consist of earthen berms, and/or living materials.

(b) Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface being a minimum of two feet in width at the highest point of the berm, and extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other forms of natural ground cover.

(F) *Nuisance abatement.*

(1) All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.

(2) Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution. Interior roads used in the operation shall have their surfaces treated to minimize any such nuisance.

(3) A noise barrier shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed, which lack sufficient existing vegetation to meet the minimum standards, as follows:

(a) There shall be six rows of mixed evergreen trees of species recommended by the District Forester, staggered six feet apart and no less than three years of age planted parallel to the boundaries of the property.

(b) The spacing between rows shall not exceed six feet.

(c) The spacing between trees within a row shall not exceed six feet.

(d) The Planning Commission may allow the preservation of existing trees within the setback areas to qualify toward satisfying division (a) above.

(e) A "Performance Guarantee" concerning the trees will be required.

(f) The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

(G) *Reclamation of mined or excavated areas.*

(1) Earth removal, quarrying, gravel processing and mining, shall be considered temporary uses. Mined or excavated sites shall be reclaimed properly and in a timely fashion.

(2) A "Performance Guarantee" shall be posted by the land owner with the Breitung Township Board to cover the estimated costs of reclamation. This "Performance Guarantee" shall be received by the Township Clerk within 30 days of the approved site plan. "Performance Guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit, acceptable to the township, in the amount of the estimated cost of reclamation. It shall be subject to review and adjustment by the Commission at the end of 12 months, and thereafter at two year intervals.

(3) Reclamation shall be completed as agreed upon by the Commission and applicant in an approved development site plan.

(4) Inactivity at a site for a continuous 12 month period shall constitute termination of mining activity and require that site reclamation commence and be completed.

(5) Upon the failure of any operator to perform reclamation of the mining site in a proper and timely manner as agreed to in the approved site plan the "Performance Guarantee" will be forfeited. The Breitung Township Board shall use the funds to cover the cost of restoring the site and administrative cost incurred in so doing. Any cost in addition of those covered by the "Performance Guarantee" shall be billed to the operator and a lien placed against the subject property. If unpaid, the cost shall be collected in the same manner as delinquent taxes or as allowed by law.

(6) *Standards controlling reclamation.*

(a) Excavated areas shall not collect stagnant water.

(b) Surface of such area which is not intended to be permanently submerged shall be graded or back-filled with non-toxic, non-flammable and non-combustible solids as necessary to produce a surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.

(c) The banks of all excavation shall be sloped to the waterline in a water producing excavation and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical to three feet horizontal.

(d) Vegetation shall be restored within one year by the appropriate planting of indigenous grasses, trees, or shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.

(e) *Maintenance.*

1. Slopes and surfaces shall be maintained as agreed in the development site plan.

2. Erosion areas shall be filled and the surface restored.

3. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

(f) Reclamation plans shall follow the standards detailed for the most appropriate uses(s) allowed by this chapter.

(g) Future uses shall conform with uses indicated in the township Master Plan or as approved in the development site plan.

(H) Additional requirements for earth removal, quarrying, gravel processing or mining.

(1) On the development site plan:

(a) North point, scale and date;

(b) Extent of the area to be excavated;

(c) Location, width and grade of all easements or rights-of-way on or abutting the property;

(d) Location of all existing and proposed structures on the property;

(e) Site drainage features and flow directions indicated;

(f) Bench marks;

(g) Location of any bodies of water and wetlands on the proposed site or within 1,500 feet;

(h) Areas to be used for ponding;

(i) Depth to groundwater;

(j) Processing, loading and storage areas;

(k) Proposed fencing, gates, parking and signs;

(l) Existing and proposed ingress-egress roads, on-site roads and proposed surface treatment and means to limit dust; and

(m) Setback lines for all activities of the site.

(2) An operational statement, which shall include at a minimum:

(a) The approximate date of commencement of the excavation and the duration of the operation;

(b) Amount and type of material or resources to be removed;

(c) Method of extracting and processing, including the disposition of overburden;

(d) Equipment proposed to be used in the operation of the excavation;

(e) Location and type of processing plants, temporary and permanent;

(f) Proposed hours and days of operation;

(g) Operating practices proposed to be used to minimize noise, dust, air contaminants and vibrations;

(h) Amount and source of water to be utilized in processing; and

(i) Methods to prevent:

1. Pollution of surface water or groundwater;

2. Adverse effects on the quantity and quality of surface water and groundwater runoff from the property; and

3. Adverse effects on wetlands both on and near the property.

(3) A rehabilitation or reclamation plan that shall include as a minimum:

(a) A reclamation statement and plan, including identification of post-mining land use, methods of accomplishment, phasing and timing;

(b) A plan indicating any proposed structures to be built on the site, the final grade, i.e., post-mining topography of the excavation, any water bodies included in the reclamation, and methods planned to prevent stagnation and pollution, landscaping and areas of cut and fill;

(c) The methods of disposing of any equipment or structures used in the operation of excavation upon completion of the excavation.

(Ord. § 732, passed 11-9-2015)

PLANNED UNIT DEVELOPMENT

§ 150.145 INTENT.

The intent of the Planned Unit Development (PUD) section of this chapter is to permit greater flexibility in the use and design of structures and land in situations where modification of specific provisions of this chapter will be consistent with its intent and purpose. Use of the planned unit development will provide for continued promotion and protection of the public health, safety, and welfare and result in development and use which is compatible with adjacent land use, the natural environment, and the capabilities of affected public services and facilities.

(Ord. § 801, passed 9-14-2009)

§ 150.146 MODIFICATION POWERS.

The provisions of this section may be applied, upon application of the owner, to any parcel exceeding two acres in size and 200 feet road frontage. In acting upon the application, the Township Planning Commission may alter setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and density and intensity limits. Except where the parcel is located in Districts R-1 or SP, it may also authorize uses not permitted in the district where the lot is located, providing such uses are desirable or convenient for the users of the parcel as developed or the immediate neighborhood, and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood. The development of the PUD shall not create demands on other existing public services in excess of current capacity nor shall uses be detrimental to the health, safety or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes, or glare.

(Ord. § 802, passed 9-14-2009)

§ 150.147 APPLICATION PROCEDURE.

The provisions of this section shall be applied to the existing zoning district, as defined on the zoning map where the PUD is to be located. The application procedure for a PUD is as follows:

(A) *Preliminary conference.* Prior to preparing a formal application, the applicant shall meet with the Planning Commission to discuss the proposed development.

(B) *Preliminary application.*

(1) Following the preliminary conference, the Planning Commission shall hold a public hearing in accordance with § 150.181 to review the preliminary application. In making its review of any portion of the PUD preliminary development plan, the Planning Commission shall find that the PUD is consistent with the standards outlined in §§ 150.128 and 150.148, and other relevant provisions of this chapter. Following the review, the Planning Commission shall approve, approve with conditions or subject to modifications, or deny in writing the preliminary application, specifying the reasons for denial.

(2) The approval of the preliminary application does not constitute recording of the plan or plat nor authorize the issuance of building permits.

(3) The applicant shall prepare and submit ten copies of a preliminary development plan which consists of the following written and graphic documents:

(a) A written description of the PUD, including:

1. How the PUD meets the intent provisions of the PUD.
2. A statement identifying the intended uses including future sales or leasing arrangements of all or portion of the PUD.
3. A legal description of the PUD parcel.
4. A listing of all owners, holders of easements, and other interested parties.
5. A projected assessment of the PUD demands on public services and utilities.

(b) A preliminary development plan which is in accordance with the site plan requirements of §§150.105 through 150.113.

(c) A development schedule; a list of covenants or deed restrictions; any maintenance agreements on open space or common ownership areas; and a description of the type of financial guarantees to be utilized to insure PUD development.

(d) Any other information as the Planning Commission may reasonably require showing the applicant's intent for the development and viability of the proposal.

(4) Within a maximum of 12 months following preliminary approval, the applicant shall file for final application as outlined in division (C) below. For good cause the Planning Commission may extend this time period for six months. If the applicant fails to apply for final application for any reason, approval or conditional approval shall be revoked.

(C) *Final application.*

(1) The applicant shall prepare and submit ten copies of a final development plan which shall include:

(a) All information as required by the Planning Commission for preliminary approval or conditional approval of the preliminary development plan.

(b) Signed copies of any preliminary plats, in accordance with Act 288 of 1967, as amended.

(c) A detailed development time schedule.

(d) Deed restrictions or covenants of the parcel.

(e) Any other plans, documentation or specifications, as the Planning Commission may require to insure final engineering review and approval, which may include building plans, elevation and perspective drawings, drainage, road or other facility designs, and letters of commitment or intent insuring adequate financing for public utilities and/or services.

(2) Upon receipt of the final development plan, the Planning Commission shall hold a second public hearing and shall determine whether or not the final plans substantially conform to the approved preliminary development plan and is in proper form for final recording. Where the Planning Commission determines that this application is consistent with this section and other requirements thereof, and is in proper form for recording, it shall authorize a PUD conditional use permit for development and use in accordance with the final accepted development plan.

(3) Authorizing the PUD conditional use permit shall not obligate the Township Planning Commission or Township Board to enforce any deed restrictions or covenants of the development parcel.

(4) The PUD conditional use permit shall be issued, following evidence of recording of the PUD final development plan with the Dickinson County Register of Deeds. A denial of the PUD shall be in writing, setting forth the reasons for denial, and any changes which would make the PUD acceptable.

(Ord. § 803, passed 9-14-2009)

§ 150.148 PUD DESIGN STANDARDS AND OBJECTIVES.

(A) *Dimensional requirements.* Yard, setback, lot size, type of dwelling unit, height, and frontage requirements and restrictions may be waived for the PUD, provided, however, that the spirit and intent of this section as defined in the intent statement, 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 intent of this subchapter.

(B) *Access.* Every structure or dwelling unit shall have access to a public street, walkway or other areas dedicated to common use. All streets in a proposed development shall be constructed in accordance with the Dickinson County Road Commission's specifications.

(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 § 150.053 of this chapter. Common driveways, parking areas, walks, or 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 the site.

(G) *Utilities.* PUD's shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. In no instance shall the PUD place demands in excess of the capabilities of the affected public facilities and services.

(H) *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.

(I) *Lighting.* A lighting plan for the PUD shall be submitted with the site plan for approval by the Planning Commission. Exterior lighting shall be arranged so it is deflected away from adjoining properties and so it does not impede the vision of drivers along adjacent streets. The lighting plan shall include street lights.

(J) *Consistency with § 150.128.* The PUD shall be consistent with the standards outlined in §150.128 and other relevant provisions of this chapter.

(K) *Changes in approved PUD.* Minor changes in the location site or character of the building and structures may be authorized by the Planning Commission, if required by engineering or other required circumstances not foreseen at the time the final development plan was approved. No changes so authorized may cause a change in the use, character, or intent of the development, an increase in the intensity of use, changes in the overall coverage of the structures, or problems of traffic circulation, utility services, or similar services, or a reduction in the approved open space, off-street parking and loading space, or pavement width requirements. Any changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial final development plan.

(Ord. § 804, passed 9-14-2009)

NONCONFORMING USES AND STRUCTURES

§ 150.160 INTENT.

(A) Nonconforming uses and structures are those which do not conform to a provision or requirement of this chapter but were lawfully established prior to the time of its applicability. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without such necessary and appropriate restriction as are within the power of the township to impose.

(B) The zoning regulations established by this chapter are designed to guide the future use of land in Breitung 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.

(C) This chapter distinguishes by class the various nonconforming uses and structures. Different regulations are established for each class. The degree of restriction over each class is a function of the degree to which that class of nonconformity is a nuisance or incompatible with the purposes and regulations of this chapter.

(D) All uses or structures created in violation of any preceding Breitung Township Zoning chapter shall not be considered a nonconforming use or structure, has no vested right, and is a violation of this chapter.

(Ord. § 901, passed 9-14-2009)

§ 150.161 CLASS A NONCONFORMING USES AND STRUCTURES.

Class A nonconforming uses and structures are those which have been so designated by the Planning Commission, after application by any interested person or the Zoning Administrator. The Planning Commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare; or to the spirit of this chapter; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; that it meets the standards set out in § 150.128 of this chapter; and that no useful purpose would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

(Ord. § 902, passed 9-14-2009)

§ 150.162 PROCEDURE FOR OBTAINING CLASS A DESIGNATION.

(A) A written application shall be filed with the Planning Commission which shall include:

- (1) Name and address of property owner and applicant if not the same;
- (2) A legal description of the property or lot;
- (3) A map illustrating property boundaries, all existing buildings and uses of land including existing drives and parking areas;
- (4) An explanation describing the present nonconforming use or structure; and
- (5) Proof of ownership of property.

(B) The Planning Commission shall, upon receipt of said application, schedule a public hearing in accordance with the procedures set out in § 150.181 of this chapter. Upon hearing the facts and information, the Planning Commission shall make its decision in writing and set forth the findings and reasons on which it is based, pursuant to the standards identified in § 150.128. Conditions may not be attached, including any time limit, where necessary to assure that the use of structure does not become contrary to the public health, safety, or welfare, or the spirit and the purpose of this chapter.

(Ord. § 903, passed 9-14-2009)

§ 150.163 PROVISIONS FOR CLASS A NONCONFORMING USES AND STRUCTURES.

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

(A) No such Class A nonconforming use or structure 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 chapter, except after approval of the Planning Commission.

(B) No Class A nonconforming use or structure 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 chapter, except after approval of the Planning Commission.

(C) No Class A nonconforming use or structure shall be extended to displace a permitted (conforming) use.

(D) No Class A nonconforming use or structure shall be changed to another nonconforming use or structure, except after approval of the Planning Commission. Before granting such approval, the Planning Commission shall determine that such change in use will have a less deleterious effect on neighboring properties than the existing nonconforming use.

(E) No Class A nonconforming uses or structures shall be altered or expanded to add another nonconforming use or structure, except after approval by the Planning Commission. The proposed nonconforming use shall satisfy the standards as set out in § 150.128.

(F) Nonconforming structures or structures devoted to a nonconforming use shall not be repaired, other than normal maintenance. Repairs shall not exceed 25% of the assessed market value of the structure in any 12-month period.

(G) (1) In the event that any nonconforming structure or structure devoted to a nonconforming use is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration is equal to or less than 50% of the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall be permitted provide a building permit for such reconstruction or restoration is issued within one year of the occurrence of such damage.

(2) Failure to commence restoration or reconstruction within one year following the occurrence of said damage shall be conclusively presumed to be an abandonment of the nonconforming use or structure.

(H) Where the cost of restoration or reconstruction of such a structure exceeds 50% of the entire structure as it existed immediately prior to the time of said damage, the nonconforming structure may not be restored or reconstructed, nor shall any nonconforming use which may have been occurring within said structure be resumed or continued upon the premises upon which said structure was located unless the Planning Commission authorizes the continuation of the nonconforming structure or nonconforming use within said structure. A written application for such authorization must be filed with the Planning Commission within six months of the occurrence of the damage.

(Ord. § 904, passed 9-14-2009)

§ 150.164 REGULATIONS PERTAINING TO CLASS A NONCONFORMING USES AND STRUCTURES.

No Class A nonconforming use or structure shall be resumed if it has been discontinued for a continuous period of at least 12 months or if it has been changed to a conforming use for any period.

(Ord. § 905, passed 9-14-2009)

§ 150.165 CLASS B NONCONFORMING USES AND STRUCTURES.

(A) All nonconforming uses and structures not designated as Class A are considered as Class B. It is the purpose of this chapter to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation. No Class B nonconforming use shall be resumed if it has been discontinued for a continuous period of at least 12 months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50% of the reproduction cost of such structure.

(B) No Class B nonconforming structure shall be enlarged or structurally altered. Non Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area that was used at the time of becoming nonconforming. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time of its inception.

(Ord. § 906, passed 9-14-2009)

§ 150.166 NONCONFORMING LOTS.

Any nonconforming parcel of land shown as a lot in a map recorded with the County Register of Deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a Notary Public, prior to the effective date of this chapter, and which lot actually exists as shown or described may be used for permitted uses even though the lot area and/or dimensions are less than those required for the district in which the lot is located, provided that yard dimensions and other requirements of the district, not involving lot area or width, are met. If a parcel contains more than one nonconforming lot, which is contiguous and in one ownership and would make one or more

conforming lots, then only one structure would be permitted per conforming parcel. In addition, if a parcel contains more than one nonconforming lot which is contiguous and in one ownership but would not make one or more conforming lots, then only one structure would be permitted per parcel. The spirit of this provision is to limit density in areas of historically small lots to provide for proper isolation for wells, septic systems, drainage and similar public health considerations. No vested right shall arise to the property owner for any parcel created in violation of any preceding Breitung Township Zoning Ordinance.

(Ord. § 907, passed 9-14-2009)

§ 150.167 GENERAL STANDARDS.

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the intent of this subchapter and the general standards as set out in § 150.128 of this chapter. Each individual proposal shall follow the procedure identified in § 150.181 of this chapter.

(Ord. § 906, passed 9-14-2009)

ADMINISTRATION AND ENFORCEMENT

§ 150.180 ADMINISTRATION.

The administration and enforcement of this chapter shall be the responsibility of the Breitung Township Board. 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 chapter shall be known as the Zoning Administrator(s).

(Ord. § 1001, passed 9-14-2009)

§ 150.181 ADMINISTRATIVE STANDARDS AND PROCEDURES.

(A) Whenever, in the course of administration and enforcement of this chapter, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this chapter, the decision shall be made so that the result will not be contrary to the spirit and purpose of this chapter or injurious to the surrounding neighborhood.

(B) Where a public hearing is required in the administration of this chapter, the Zoning Board of Appeals and the Planning Commission shall comply with the following in accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006:

When the provisions of the Zoning Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Breitung Township and mailed or delivered as provided in this Section.

1. All mail, personal and newspaper notices for public hearings shall include the time, place and nature of the request, the geographic area included in the zoning proposal, where and when written comments will be received, and where and when the Zoning Ordinance and proposals and applications may be examined.

2. Personal and Mailed Notice - When the provisions of the Zoning Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

(a) The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

(b) Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Breitung Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.

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

(c) All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to this Section shall receive notice by mail.

(d) Other governmental units within one mile of the property involved in the application.

3. Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, property addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

4. Timing of Notice: Unless otherwise provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006, or the Zoning Ordinance where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal or ordinance interpretation shall be provided no less than fifteen (15) days

before the date the application will be considered for approval.

5. Registration to Receive Notice by Mail:

(a) General: Any neighborhood organization, Public Utility Company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant this Section. Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

(b) Requirements: The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register bi-annually to continue to receive notification pursuant to this Section.

(C) Where a public hearing is required in the administration of this chapter, the Zoning Board of Appeals and the Planning Commission:

(1) Shall base their decision upon facts presented at a public hearing;

(2) Shall permit interested parties at the hearing to present and rebut information either supporting or opposing the zoning action under consideration;

(3) Shall prepare a comprehensive summary record of the hearing, including an exact record of motions, votes and other official action;

(4) Shall set forth in writing and in detail any denial, approval, conditional approval, or order and the facts supporting such decision;

(5) Shall file the record, written testimony, or documents submitted with regard to the hearing, and the decision with the Township Clerk, and maintain an affidavit of mailing for each mailing made under this section;

(6) Shall comply with all other requirements under the law; and

(7) Shall have all administrative actions recorded in the Official Zoning Orders Book and Map.

(D) Wherever a discretionary decision is authorized in this chapter, such as, but not limited to, the issuance of conditional use permits, conditions (including, but not limited to greater setbacks, parking, screening, drainage, access control and other similar requirements) may be imposed provided they are:

(1) Designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed use or activity, and the community as a whole;

(2) Related to the valid exercise of the police power, and the purposes which are affected by the proposed use or activity;

(3) Necessary to meet the intent and purpose of the Zoning Ordinance, are related to standards established in the chapter for the land use or activity under consideration, and are necessary to insure compliance with those standards; and

(4) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. A record of changed condition shall also be maintained.

(E) All administrative guides or rules developed to assist the Zoning Board of Appeals or the Planning Commission in the administration of this chapter shall be filed with the Township Clerk and be open to public inspection.

(Ord. § 1002, passed 9-14-2009)

§ 150.182 ZONING ADMINISTRATOR.

The Zoning Administrator shall be appointed by the Township Board and shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of this township. The Zoning Administrator, or their designated employee, shall administer the provisions of this chapter and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. They shall have no power to vary or waive chapter requirements.

(Ord. § 1003, passed 9-14-2009)

§ 150.183 DUTIES OF ZONING ADMINISTRATOR.

(A) The Zoning Administrator shall have the power to issue certificates of zoning compliance and to review site plans to determine whether it is in proper form, contains all of the required information and is in accordance with the provisions of this chapter. The Zoning Administrator shall make inspections of premises and collect such investigative data deemed necessary to carry out his or her duties in the enforcement of this chapter.

(B) If the Zoning Administrator shall find that any provision of this chapter is being violated, the Administrator shall order discontinuance of any illegal work being done; or shall take such action as authorized to insure or prevent violation of the

provisions of this chapter.

(C) The Zoning Administrator shall not vary, change or grant exceptions to any terms of this chapter, or to any person making application under the requirements of this chapter.

(D) The Zoning Administrator shall interpret the provisions of this chapter, both the text and map, in such a way as to carry out the intent and purpose of this chapter. Any determination of the Zoning Administrator may be appealed to the Board of Appeals.

(E) It shall be unlawful for the Zoning Administrator to issue a zoning compliance permit or other such permits, for any construction or use until he or she has inspected such plans and found them to conform to this chapter.

(Ord. § 1004, passed 9-14-2009)

§ 150.184 ZONING COMPLIANCE PERMIT.

(A) 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 zoning compliance permit shall have been issued therefore by the Zoning Administrator. The permit shall state that the building, structure, and lot, and use thereof, conform to the requirements of this chapter. A change in ownership or a change in the use of any building shall require an issuance of a new zoning compliance permit.

(B) The Zoning Administrator shall maintain a record of all zoning compliance permit and said record shall be open for public inspection. Failure to obtain a zoning compliance permit shall be a violation of this chapter.

(Ord. § 1005, passed 9-14-2009)

§ 150.185 ENFORCEMENT AND VIOLATION.

Notice of violation:

(A) Whenever the Zoning Administrator determines that a violation of this chapter exists, said Zoning Administrator shall issue a notice of violation.

(B) Such notice shall be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records.

(C) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.

(D) All violations shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Township Attorney who shall initiate prosecution procedures.

(E) Violations of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined as set out in the schedule of fees or imprisoned for not more than 93 days, or both, and in addition, shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(Ord. § 1006, passed 9-14-2009)

§ 150.186 SPECIAL ZONING ORDERS BOOK AND MAP.

The Zoning Administrator shall maintain a book, to be known as the special zoning orders book, in which shall be listed, with a brief description, all variances, conditional use permits, authorizations for Planned Unit Developments, designations of nonconforming uses and structures, and any termination of any of them. Each item shall be assigned a number when entered. The Zoning Administrator shall also maintain a map, to be known as the special zoning order map, on which shall be recorded the numbers in the special zoning orders book to indicate the locations affected by the items in the book. The special orders book and map shall be open to public inspection.

(Ord. § 1007, passed 9-14-2009)

§ 150.187 FEES.

The Township Board shall periodically establish by resolution a schedule of fees for administering this chapter. The schedule of fees shall be made available in the office of the Zoning Administrator and may be changed only by the Township Board. No permit or certificate shall be issued unless such fees have been paid in full.

(Ord. § 1008, passed 9-14-2009)

ZONING BOARD OF APPEALS

§ 150.200 CREATION AND MEMBERSHIP.

The Zoning Board of Appeals is hereby established in accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended. The Board shall consist of five members: a member of the Planning Commission; and the remaining members appointed by the Township Board from the electors residing in the township. The term of office for the member of the Planning Commission shall not exceed his or her term of office on the Commission. The Township Board may appoint a maximum of two alternates to the Zoning Board of Appeals to serve in the absence or illness of regular members of the Board of Appeals. The term of the alternates shall coincide with the terms of the members appointed from the electors residing in the township.

(Ord. § 1101, passed 9-14-2009)

§ 150.201 PROCEDURES.

(A) The Zoning Board of Appeals may adopt rules and regulations to govern its procedures. The Zoning Board of Appeals shall appoint one of its members as Chairperson. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to revise any order, requirements, decision or interpretation of the Zoning Administrator or to decide in favor of an applicant any matter upon which they are required to pass under this chapter or to effect any variation in this chapter.

(B) Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such times as 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 any 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 and date for a hearing. The Board shall give due notice of the hearing by regular mail to the parties of interest and to owners of adjacent property in accordance with the provisions of § 150.181.

(Ord. § 1102, passed 9-14-2009)

§ 150.202 DUTIES AND POWERS.

(A) The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, so that the objectives of this chapter 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, interpretation of the Zoning Ordinance, including the zoning map 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 chapter, but does have power to act on those matters specifically provided for in this chapter.

(Ord. § 1103, passed 9-14-2009)

§ 150.203 ADMINISTRATIVE REVIEW.

(A) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determination of the Zoning Administrator, with the exception of site plan appeals.

(B) The Zoning Board of Appeals shall have the power to:

(1) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter;

(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) Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in § 150.053 or by an analysis of the specific needs.

(Ord. § 1104, passed 9-14-2009)

§ 150.204 VARIANCES.

(A) The Zoning Board of Appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in practical difficulties.

(B) Practical difficulties standard-A variance shall not be granted by the Zoning Board of Appeals unless and until the following conditions are met. A written application for the variance shall be submitted, demonstrating:

(1) That special conditions and circumstances 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;

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by

other properties in the same district under the terms of this chapter;

(3) That the special conditions and circumstances necessitating the variance did not result from the actions of the applicant; and

(4) That granting the variance requested would not confer on the applicant any special privilege that is denied by this chapter 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 Zoning Board of Appeals shall make findings that the requirements of this section have been met by the applicant.

(E) The Zoning Board of 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 Zoning Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.

(G) In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards with this chapter. 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 chapter.

(H) Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

(I) In exercising the above mentioned powers, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this chapter, 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 was taken.

(J) Each variance granted under the provisions of this chapter 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. § 1105, passed 9-14-2009)

§ 150.205 APPEALS.

(A) Appeals concerning interpretation of the administration of this chapter or denial of conditional use permit by the Planning Commission shall be made by filing a notice of appeal specifying the grounds thereof with the Zoning Administrator within a period of 60 days from the occurrence of the contested action. The Zoning Administrator shall transmit to the Board copies of all papers constituting the record upon which the action appealed was taken from.

(B) A fee shall be paid to the township at the time of filing the notice of appeal. 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 Zoning Board of 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 Zoning Administrator certifies to the Board that a stay would in his or 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.

(Ord. § 1106, passed 9-14-2009)

§ 150.206 DUTIES ON MATTERS OF APPEAL.

All questions concerning application of the provisions of this chapter shall first be presented to the Zoning Administrator. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals shall be to the Circuit Court of Dickinson County, as provided by law.

(Ord. § 1107, passed 9-14-2009)

TOWNSHIP PLANNING COMMISSION: PLANNING AND ZONING AUTHORITY

§ 150.220 DESIGNATION.

The Breitung Township Planning Commission is the Planning Commission for Charter Township of Breitung, Dickinson County, Michigan under the Michigan Planning Enabling Act, Public Act No. 33 of the Public Acts of 2008. Further, the

Breitung Township Planning Commission has assumed the duties of the Zoning Commission prescribed in Section 301, of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

(Ord. § 1201, passed 9-14-2009; Ord. § 1201, passed 11-9-2015)

§ 150.221 CHANGES AND AMENDMENTS.

Only the Township Board may amend this chapter. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, by an individual, or by any interested entity in accordance with §§ 150.290 through 150.295, Amendments and Rezoning.

(Ord. § 1202, passed 9-14-2009; Ord. § 1202, passed 11-9-2015)

ACCESS MANAGEMENT

§ 150.235 FINDINGS AND INTENT.

(A) Conditions along the major highways in Dickinson County are changing with increasing development and traffic. Continued development along U.S.-2/U.S.-141 and M-95 will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway. The conditions along U.S.-2/U.S.-141/M-95 and a series of access management recommendations are embodied in the *U.S.-2/U.S.-141/M-95 Access Management Action Plan*. Among those recommendations are the creation of an overlay zone along these highways within Dickinson County and the adoption of uniform access management standards by all the jurisdictions along the U.S.-2/U.S.-141/M-95 corridor which are based on the Michigan Department of Transportation access management standards and the *Michigan Access Management Guidebook*, provided to local governments by the Michigan Department of Transportation.

(B) The provisions of this section are intended to promote safe and efficient travel on state highways within Dickinson County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Charter Township of Breitung comprehensive plan and the *U.S.-2/U.S.-141/M-95 Access Management Action Plan* recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Dickinson County Road Commission, and adjoining jurisdictions, as applicable.

(C) To these ends, the following provisions:

- (1) Establish a Highway Overlay Zone to regulate access points along the highway.
- (2) Identify additional submittal information and review procedures required for parcels that front along U.S.-2/U.S.-141/M-95.
- (3) Require demonstration that new parcels are accessible and in compliance with the access standards of this chapter to ensure safe accessibility as required by the Land Division Act.
- (4) Restrict lots and parcels to a single access point except under certain circumstances.
- (5) Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards;
- (6) Require coordinated access among adjacent lands wherever feasible;
- (7) Improve situations where existing development along the highways does not conform to the standards and intent of this chapter.
- (8) Establish uniform standards to ensure fair and equal application.

(Ord. § 1401, passed 9-14-2009)

§ 150.236 APPLICABILITY.

(A) The standards of this subchapter apply to all lots and parcels that abut the highway right-of-way of U.S.-2/U.S.-141/M-95 and such other lands that front on intersecting streets within 350 feet of the U.S.-2/U.S.-141/M-95 right-of-way within The Charter Township of Breitung. This area is referred to as the Highway Overlay Zone.

(B) The standards of this section shall be applied by the Zoning Administrator during site plan review and by the Planning Commission during site plan review, as is appropriate to the application. The Planning Commission shall make written findings of nonconformance, conformance, or conformance if certain conditions are met with the standards of this section

prior to disapproving or approving a site plan per the requirements of §§ 150.105 through 150.113. The Charter Township of Breitung shall coordinate its review of the access elements of a plot plan or site plan with the appropriate road authority prior to making a decision on an application (see division (C)(4) below). The approval of a site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, either the Dickinson County Road Commission, or the Michigan Department of Transportation. Any driveway permit obtained by an applicant prior to review and approval of a plot plan or site plan as required under this chapter will be ignored, unless it is conditioned upon approval under this chapter.

(C) These regulations apply in addition to, and simultaneously with, the other applicable regulations of the Zoning Ordinance. Permitted and Special Land Uses within the Highway Overlay Zone shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that district, with the following additional provisions:

(1) The number of access points is the fewest needed to allow motorists reasonable access to the site.

(2) Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay Zone, and the guidelines of the applicable road agency (MDOT and/or Dickinson County Road Commission) and the recommendations of the *U.S.-2/U.S.-141/M-95 Access Management Access Plan* as appropriate.

(3) Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the County Register of Deeds.

(4) No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay Zone regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.

(5) No land division, subdivision or site condominium project for land within this Highway Overlay Zone shall be approved unless compliance with the access spacing standards in this section is demonstrated.

(6) Any change in use on a site that does not meet the access standards of this Highway Overlay Zone, shall be required to submit an application for approval by the Planning Commission and submit information to the MDOT, and/or County Road Commission as appropriate, to determine if a new access permit is required. See § 150.245 below.

(7) For building or parking lot expansions, or changes in use, or site redevelopment that cannot meet the standards of this chapter due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with the access standards of this Highway Overlay Zone. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the *U.S.-2/U.S.-141/M-95 Access Management Action Plan*, and any recommendations from the MDOT, and/or Dickinson County Road Commission as appropriate. Required improvements may include removal, rearrangement or redesign of driveways or other access.

(8) Where conflict occurs between the standards of this chapter and other applicable ordinances, the more restrictive regulations shall apply.

(Ord. § 1402, passed 9-14-2009)

§ 150.237 ONE ACCESS PER PARCEL.

All land in a parcel or lot having a single tax code number, as of the effective date of the amendment adding this provision to the chapter (hereafter referred to as "the parent parcel"), that shares a lot line for less than 600 feet with right-of-way on U.S.-2/U.S.-141/M-95 shall be entitled to one driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.

(A) All subsequent land divisions of a parent parcel shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.

(B) Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive.

(C) Parent parcels with more than 600 feet of frontage on a public road or highway shall also meet the requirements divisions (A) and (B) above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each 600 feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the Planning Commission that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety. See also § 150.251(B).

(Ord. § 1403, passed 9-14-2009)

§ 150.238 APPLICATIONS.

(A) Applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan

Department of Transportation and Dickinson County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well.

(B) Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of §§ 150.105 through 150.113 in addition to those of this section. In addition:

(1) Applications are strongly encouraged to rely on the following sources for access designs, the *National Access Management Manual*, TRB, 2003; National Cooperative Highway Research Program (NCHRP), *Access Management Guidelines to Activity Centers* Report 348, *Impacts of Access Management Techniques* Report 420; and the AASHTO (American Association of State Highway and Transportation Officials) "Green Book" *A Policy on Geometric Design of Highways and Streets*. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:

- (a) Not more than one driveway access per abutting road.
- (b) Shared driveways.
- (c) Service drives: front and/or rear.
- (d) Parking lot connections with adjacent property.
- (e) Other appropriate designs to limit access points on an arterial or collector.

(2) As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of § 150.068.

(3) In addition to the information required in §§150.105 through 150.113 the information listed below shall also be submitted for any lot or parcel within the Highway Overlay Zone accompanied by clear, scaled drawings (minimum of one inch equals 20 feet) showing the following items:

- (a) Property lines.
- (b) Right-of-way lines and width, and location and width of existing road surface.
- (c) Location and size of all structures existing and proposed on the site.
- (d) Existing access points. Existing access points within 500 feet on either side of the U.S.-2/U.S.-141/M-95 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
- (e) Surface type and dimensions shall be provided for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs), intersecting streets, and all curb radii within the site.
- (f) The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.
- (g) Size and arrangement of parking stalls and aisles.
- (h) The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Dickinson County Road Commission are met.
- (i) Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).
- (j) Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.
- (k) Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the County Register of Deeds.
- (l) Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.
- (m) Dumpsters or other garbage containers.
- (n) The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.
- (o) Traffic impact study meeting the requirements of this chapter (Section Three) where applicable.

(Ord. § 1404, passed 9-14-2009)

§ 150.239 REVIEW AND APPROVAL PROCESS.

The following process shall be completed to obtain access approval:

- (A) An access application meeting the requirements of this chapter (Section One D). above shall be submitted to the

Zoning Administrator on the same day it was submitted to the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable.

(B) The completed application must be received by the Zoning Administrator at least 14 days prior to the Planning Commission meeting where the application will be reviewed.

(C) The applicant, the Zoning Administrator and representatives of the Dickinson County Road Commission, the Michigan Department of Transportation and the Planning Commission may meet prior to the Planning Commission meeting to review the application and proposed access design. Such a meeting shall occur for all projects where a traffic impact study is required.

(D) If the Planning Commission considers the application first, it shall recommend approval conditioned upon approval of the applicable road authority, or it shall recommend denial based on nonconformance with this chapter, or if necessary, table action and request additional information. The action of the Planning Commission shall be immediately transmitted to the applicable road authority.

(E) It is expected that if the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, review the application first, each entity will immediately send its decision on the application to the Planning Commission for their consideration. One of three actions may result;

(1) If the Planning Commission and the Michigan Department of Transportation, and the Road Commission, as applicable, approve the application as submitted, the access application shall be approved.

(2) If both the Planning Commission and the Michigan Department of Transportation and the Road Commission, as applicable, deny the application, the application shall not be approved.

(3) If either the Planning Commission, Michigan Department of Transportation, or Road Commission, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the Zoning Administrator, a representative of the Planning Commission and staff of the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.

(F) No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies, as applicable, have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case the application shall be denied by that agency and the requested driveway(s) shall not be constructed. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any driveway permit approved by a road authority.

(Ord. § 1405, passed 9-14-2009)

§ 150.240 RECORD OF APPLICATION.

The Zoning Administrator shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.

(Ord. § 1406, passed 9-14-2009)

§ 150.241 PERIOD OF APPROVAL.

Approval of an application remains valid for a period of one year from the date it was authorized. If authorized construction, including any required rear service road or frontage road is not initiated by the end of one year, the authorization is automatically null and void. Any additional approvals that have been granted by the Planning Commission or the Zoning Board of Appeals, such as special land use permits, or variances, also expire at the end of one year.

(Ord. § 1407, passed 9-14-2009)

§ 150.242 RENEWAL.

An approval may be extended for a period not to exceed one year. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The Zoning Administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or planned, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that creates an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall consult a representative of the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, for input.

(Ord. § 1408, passed 9-14-2009)

§ 150.243 RE-ISSUANCE REQUIRES NEW APPLICATION.

Re-issuance of an authorization that has expired requires a new access application form to be filled out, fee paid, and processed independently of previous action. See subsection § 150.239(A).

(Ord. § 1409, passed 9-14-2009)

§ 150.244 MAINTENANCE.

The applicant shall assume all responsibility for all maintenance of driveway approaches from the right-of-way line to the edge of the traveled roadway.

(Ord. § 1410, passed 9-14-2009)

§ 150.245 CHANGE OF USE ALSO MAY REQUIRE NEW DRIVEWAY.

When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by the Michigan Department of Transportation and/or the Dickinson County Road Commission as applicable, and as set forth in this chapter prior to the issuance of a Zoning Permit, and pursuant to the procedures of this section.

(Ord. § 1411, passed 9-14-2009)

§ 150.246 CHANGES REQUIRE NEW APPLICATION.

Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised access application has been submitted and approved as specified in this section.

(Ord. § 1412, passed 9-14-2009)

§ 150.247 CLOSING OF DRIVEWAYS.

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner, unless some other arrangement is agreed to by the road authority responsible for the road in question.

(Ord. § 1413, passed 9-14-2009)

§ 150.248 INSPECTION.

The Zoning Administrator shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved application prior to allowing occupancy. The Zoning Administrator may consult with MDOT and/or the County Road Commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.

(Ord. § 1414, passed 9-14-2009)

§ 150.249 PERFORMANCE BOND.

The community may require a performance bond or cash deposit in any sum not to exceed the amount in the schedule of fees for each such driveway approach or entrance to insure compliance with an approved application. Such bond shall terminate and the deposit be returned to the applicant when the terms of the approval have been met or when the authorization is cancelled or terminated.

(Ord. § 1415, passed 9-14-2009)

§ 150.250 LOT WIDTH AND SETBACKS.

(A) *Minimum lot width.* Except for existing lots of record, all lots fronting on U.S.-2/U.S.-141/M-95 subject to this section, shall not be less than 300 feet in width, unless served by shared access or a service drive that meets the requirements of Section R 9, 10, or 11, in which case minimum lot width may be reduced to not less than 100 feet in width if a deed restriction is approved and recorded with the County Register of Deeds demonstrating an effective method for long term maintenance of the shared access, service drive and/or parking lot cross-access.

(B) *Structure setback.* No structure other than signs, as allowed in §§150.082 and 150.083, telephone poles and other utility structures that are not buildings, transfer stations or substations, shall be permitted within 50 feet of the roadway right-of-way.

(C) *Parking setback and landscaped area.* No parking or display of vehicles, goods or other materials for sale, shall be located within 50 feet of the roadway right-of-way. This setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils unless another design is approved under the landscape provisions of §§ 150.054 through 150.056.

(Ord. § 1417, passed 9-14-2009)

§ 150.251 ACCESS MANAGEMENT STANDARDS.

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay Zone shall be established, reconstructed or removed without first meeting the requirements of this section.

(A) Each lot/parcel with highway frontage on U.S.-2/U.S.-141/M-95 shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted in divisions (B) and (C), land divisions shall not be permitted that may prevent compliance with the access location standards of this Highway Overlay Zone.

(B) When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on U.S.-2/U.S.-141/M-95, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:

- (1) One standard, two-way driveway;
- (2) Additional ingress/egress lanes on one standard, two-way driveway;
- (3) Two, 1-way driveways;
- (4) Additional ingress/egress lanes on two, 1-way driveways;
- (5) Additional driveway(s) on an abutting street with a lower functional classification;
- (6) Additional driveway on arterial street;

(7) ****Note:** Restricted turns and roadway modifications will be considered in conjunction with alternative driveway designs.

(C) Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves less based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

Posted Speed Limit	Along U.S.-2/U.S.-141/M-95*	Along Other Intersecting Major Arterials	Along All Other Intersection Street (Not on Major Arterials)
35 mph or less	245 ft.	245 ft.	150 ft.
40 mph	300 ft.	300 ft.	185 ft.
45 mph	350 ft.	350 ft.	230 ft.
50 mph	455 ft.	455 ft.	275 ft.
55 mph	455 ft.	455 ft.	350 ft.

Notes:
* Unless greater space is required by MDOT

(D) Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.

(E) Driveways or new intersecting streets along sections of U.S.-2/U.S.-141/M-95 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.

(F) Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.

(G) Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless MDOT authorizes a lesser spacing:

Signalized Locations*	Distance in Feet	Unsignalized Locations	Distance in Feet
Along U.S.-2/U.S.-141/M-95	300	Along U.S.-2/U.S.-141/M-95	300
Along other public streets	200	Intersections with U.S.-2/U.S.-141/M-95	300
		Other intersections	150

Notes:

*Spacing for signalized intersections shall also be applied at intersections where MDOT indicates spacing and approach volumes may warrant signal in future.

(H) Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.

(I) (1) Sharing or joint use of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of § 150.251(C) above 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) In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.

(J) Frontage roads or service drives (see Figure 1, below) shall be designed, constructed and maintained in accordance with the following standards:

(1) *Location.* Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.

(2) *Alignment.* The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation.

(3) *Setback.* Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of 30 feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this chapter.

(4) *Access easement.* A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be recorded with the County Register of Deeds. This easement shall be at least 40 feet wide. A frontage road or service drive shall have a minimum pavement width of 26 feet, measured face to face of curb with an approach width of 36 feet at intersections. The frontage road or service drive shall be constructed of a paved surface material that is resistant to erosion and shall meet Dickinson County Road Commission or MDOT standards for base and thickness of asphalt or concrete, unless the community has more restrictive standards.

(5) *Snow storage.* A minimum of 15 feet of snow storage/landscaping area shall be reserved along both sides of the frontage road or service drive.

(6) *Service drive maintenance.* No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. The agreement shall also specify who is responsible for enforcing speed limits, parking and related vehicular activity on the service drive. This agreement shall be approved by the Charter Township of Breitung attorney and recorded with the deed for each property it serves by the County Register of Deeds. If the service drive is a private road, the local government shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefitting landowners if they fail to properly maintain a service drive.

(7) *Landscaping.* Landscaping along the service drive shall conform to the requirements of §§150.054 through 150.056. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.

(8) *Parking areas.* All separate parking areas shall have no more than one access point or driveway to the service drive.

(9) *Parking.* The service road is intended to be used exclusively for circulation, not as a parking, loading or unloading aisle. Parking shall be prohibited along two-way frontage roads and service drives that are constructed at the minimum width. One-way roads or two-way roads designed with additional width for parallel parking may be allowed if it can be demonstrated through traffic studies that on-street parking will not significantly affect the capacity, safety or operation of the frontage road or service drive. Perpendicular or angle parking along either side of a designated frontage road or service drive is prohibited. The Planning Commission may require the posting of "no parking" signs along the service road. As a condition to site plan approval, the Planning Commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow

extension of the service road. Temporary parking spaces permitted within the service drive shall be in excess of the minimum required under § 150.053, parking and loading standards.

(10) *Directional signs and pavement markings.* Pavement markings may be required to help promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform to the current *Michigan Manual of Uniform Traffic Control Devices*

(11) *Assumed width of pre-existing service drives.* Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be 40 feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.

(12) *Pedestrian and bicycle access* Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the Planning Commission.

(13) *Number of lots or dwellings served.* No more than 25 lots or dwelling units may gain access from a service drive to a single public street.

(14) *Service drive signs.* All new public and private service drives shall have a designated name on a sign meeting the standards on file in the office of the Zoning Administrator.

(15) *Pre-existing conditions.* In the case of expansion, alteration or redesign of existing development where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the Planning Commission shall have the authority to allow and/or require alternative cross access between adjacent parking areas through the interconnection of main circulation aisles. Under these conditions, the aisles serving the parking stalls shall be aligned perpendicularly to the access aisle, as shown in Figure 1c., below, with islands, curbing and/or signage to further delineate the edges of the route to be used by through traffic.

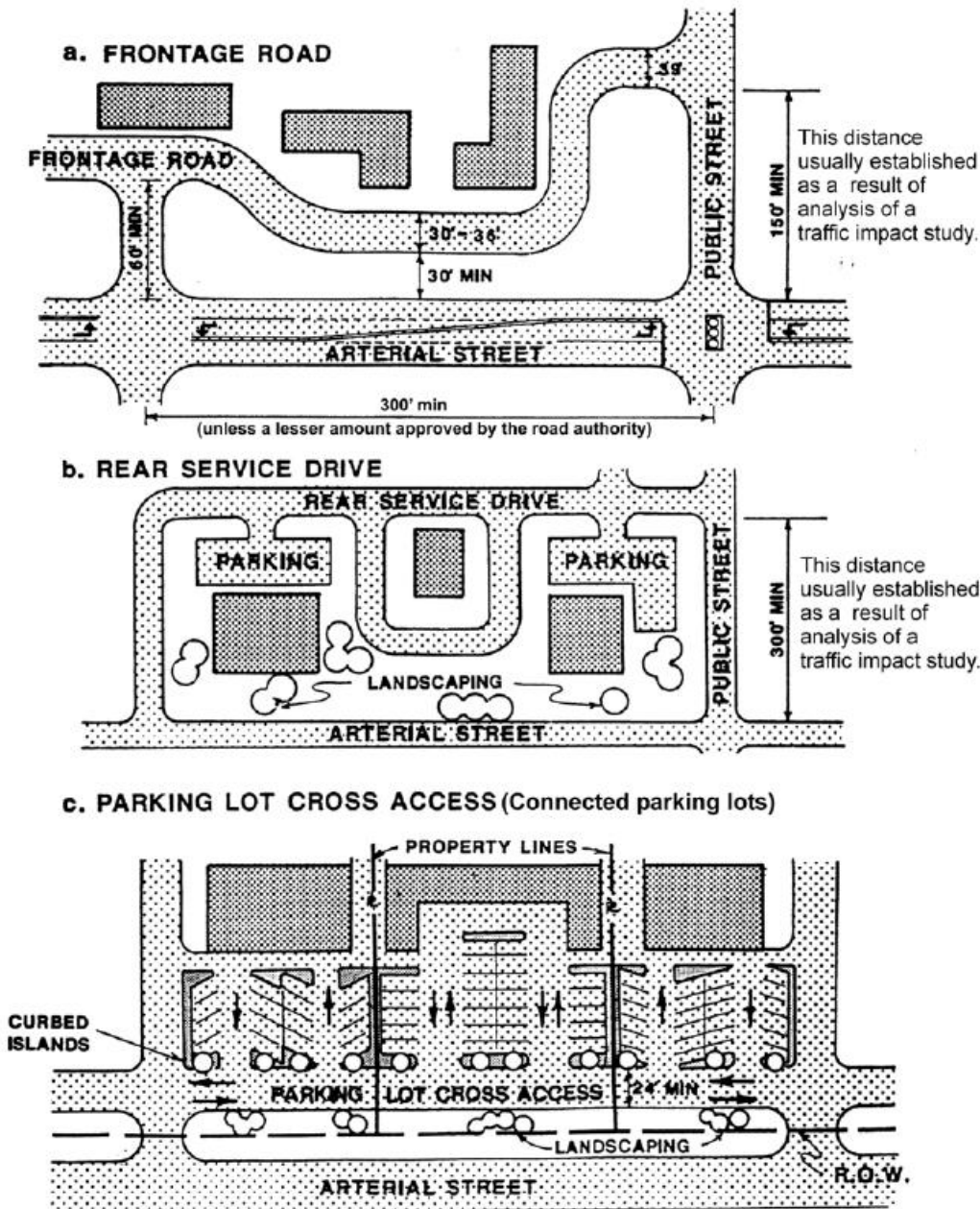


Figure 1

Frontage Road, Rear Service Drive and Parking Lot Cross Access

(K) *Parking lot connections or parking lot cross-access.* 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 zoning approval.

(L) *Access easements.* Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed.

(M) *Safe sight distance.* Access points shall be located to provide safe sight distance, as determined by the applicable road agency.

(N) *Access points; clear vision illustrated.* All access points shall maintain clear vision as illustrated in Figures 2 and 3, below.

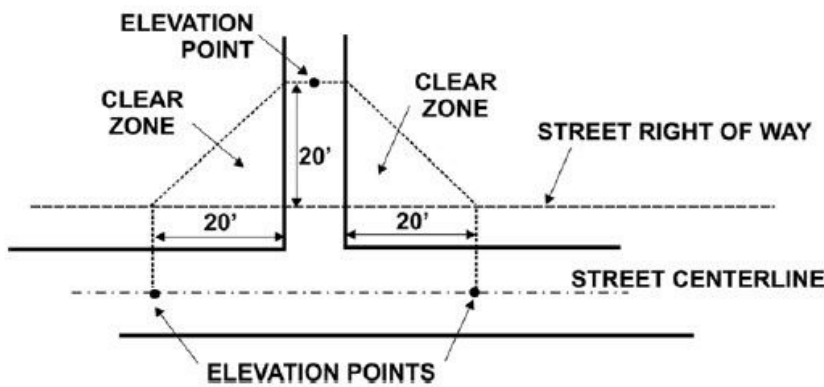


Figure 2

CLEAR VISION ON CORNER

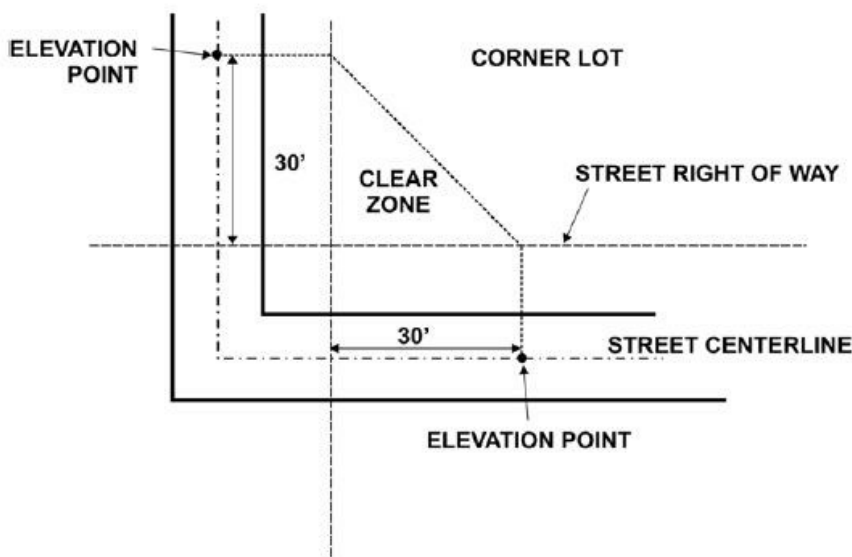


Figure 3

(O) *Throat width and length of driveways.* Throat width and throat length of driveways shall be as required by the road authority and this chapter. The driveway design shall safely accommodate the needs of pedestrians and bicyclists.

(P) *Grades and drainage.*

(1) Driveways shall be constructed such that the grade for the 25 feet nearest the pavement edge or shoulder does not exceed 1.5% (one and one-half-foot vertical rise in 100 feet of horizontal distance) wherever feasible. Where not feasible,

grades shall conform with requirements of the applicable road authority.

(2) Driveways shall be constructed such that drainage from impervious areas located outside of the public right-of-way, which are determined to be in excess of existing drainage from these areas shall not be discharged into the roadway drainage system without the approval of the responsible agency. Storm drains, or culverts, if required shall be of a size adequate to carry the anticipated storm flow and be constructed and installed pursuant to the specifications of the responsible road authority.

(Q) *Directional signs and pavement markings.* In order to ensure smooth traffic circulation on the site, direction signs and pavement markings shall be installed at the driveway(s) in a clearly visible location as required by the Charter Township of Breitung as part of the site plan review process and approved by the Michigan Department of Transportation and Dickinson County Road Commission (as

appropriate), and shall be maintained on a permanent basis by the property owner. Directional signs and pavement markings shall conform to the standards in the *Michigan Manual of Uniform Traffic Control Devices*

(R) *Traffic signals.* Access points on U.S.-2/U.S.-141/M-95 may be required to be signalized in order to provide safe and efficient traffic flow. Any signal shall meet the spacing requirements of the applicable road authority. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined by the road authority that the signal is warranted by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria of the road authority with jurisdiction.

(S) *No interference with municipal facilities.* No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any new or proposed such driveways shall be at the expense of the property owner with the problem driveway.

(Ord. § 1418, passed 9-14-2009)

§ 150.252 NONCONFORMING DRIVEWAYS.

(A) Driveways that do not conform to the regulations in this section, and were constructed before the effective date of this section, shall be considered legal nonconforming driveways. Existing driveways previously granted a temporary access permit by MDOT or the County Road Commission are legal nonconforming driveways until such time as the temporary access permit expires.

(B) Loss of legal nonconforming status results when a nonconforming driveway ceases to be used for its intended purpose, as shown on the approved site plan, or a plot plan, for a period of 12 months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this subchapter.

(C) Legal nonconforming driveways may remain in use until such time as the use of the driveway or property is changed or expanded in number of vehicle trips per day or in the type of vehicles using the driveway (such as many more trucks) in such a way that impact the design of the driveway. At this time, the driveway shall be required to conform to all aspects of the chapter.

(D) Driveways that do not conform to the regulations in this chapter and have been constructed after adoption of this chapter shall be considered illegal nonconforming driveways.

(E) Illegal nonconforming driveways are a violation of this chapter. The property owner shall be issued a violation notice which may include closing off the driveway until any nonconforming aspects of the driveway are corrected. Driveways constructed in illegal locations shall be immediately closed upon detection and all evidence of the driveway removed from the right-of-way and site on which it is located. The costs of such removal shall be borne by the property owner.

(F) Nothing in this chapter shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways, provided it is done consistent with the requirements of this section.

(Ord. § 1419, passed 9-14-2009)

§ 150.253 WAIVERS AND VARIANCES OF REQUIREMENTS IN § 150.251.

(A) *Waiver.* Any applicant for access approval under the provisions of this section may apply for a waiver of standards in § 150.251 if the applicant cannot meet one or more of the standards according to the procedures provided below:

(1) For waivers on properties involving land uses with less than 500 vehicle trips per day based on rates published in the *Trip Generation Manual* of the Institute of Transportation Engineers: Where the standards in this section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the section may be accepted by the Zoning Administrator, provided that all of the following apply:

- (a) The use has insufficient size to meet the dimensional standards.
- (b) Adjacent development renders adherence to these standards economically unfeasible.
- (c) There is no other reasonable access due to topographic or other considerations.

(d) The standards in this section shall be applied to the maximum extent feasible.

(e) The responsible road authority agrees a waiver is warranted.

(2) For waivers on properties involving land uses with more than 500 vehicle trips per day based on rates published in the *Trip Generation Manual* of the Institute of Transportation Engineers: During site plan review the Planning Commission shall have the authority to waive or otherwise modify the standards of § 150.251(R) following an analysis of suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this section, provided all of the following apply:

(a) Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.

(b) Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.

(c) The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.

(d) The proposed location and design is supported by the County Road Commission and/or the Michigan Department of Transportation, as applicable, as an acceptable design under the circumstances.

(B) *Variance standards.* The following standards shall apply when the Board of Appeals considers a request for a variance from the standards of this section.

(1) The granting of a variance shall not be considered until a waiver under division (A)(1) or (A)(2), above, has been considered and rejected.

(2) Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, steep slopes, an odd parcel shape or narrow frontage, or location relative to other buildings, driveways or an intersection or interchange) that make strict application of the provisions of this section impractical. This shall include proof that:

(a) Indirect or restricted access cannot be obtained; and

(b) No reasonable engineering or construction solution can be applied to mitigate the condition; and

(c) No reasonable alternative access is available from a road with a lower functional classification than the primary road; and

(d) Without the variance, there is no reasonable access to the site and the responsible road authority agrees.

(3) The Board of Appeals shall make a finding that the applicant for a variance met their burden of proof above, that a variance is consistent with the intent and purpose of this section, and is the minimum necessary to provide reasonable access.

(4) Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an unnecessary hardship on the applicant. No variance shall be granted where such hardship is self-created.

(Ord. § 1420, passed 9-14-2009)

§ 150.254 TRAFFIC IMPACT STUDY.

(A) If the proposed land use exceeds the traffic generation thresholds below, then the Zoning Administrator shall require submittal of a traffic impact study at the expense of the applicant, as described below prior to consideration of the application or site plan by either the Zoning Administrator

or the Planning Commission. At their discretion, the Planning Commission may accept a traffic impact study prepared for another public agency. A traffic impact study shall be provided for the following developments unless waived by the Planning Commission following consultation with the Michigan Dept. of Transportation or County Road Commission, as applicable:

(1) For any residential development of more than 20 dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or

(2) When permitted uses could generate either a 30% increase in average daily traffic, or at least 100 directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over 750 trips in an average day.

(3) Such other development that may pose traffic problems in the opinion of the Planning Commission.

(B) At a minimum the traffic impact study shall be in accordance with accepted principles as described in the handbook *Evaluating Traffic Impact Studies, a Recommended Practice for Michigan*, developed by the MDOT and other Michigan transportation agencies and contain the following:

(1) A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current data transportation system inventory, peak hour volumes at present and projected, number of lanes, roadway cross section, intersection traffic, signal progression, and related information on present and future conditions. The capacity analysis

software should be the same for each project, such as using HCS 2000 or a later version.

(2) Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers *Trip Generation Manual*. The Charter Township of Breitung may approve use of other trip generation data if based on recent studies of at least three similar uses within similar locations in Michigan.

(3) Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the *Highway Capacity Manual* published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact study.

(4) Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.

(5) Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the *U.S.-2/U.S.-141/M-95 Access Management Action Plan* and the community or comprehensive master plan, and will not reduce capacity or traffic operations along the roadway.

(6) Qualifications and documented experience of the author of the *Traffic Impact Study*, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

(C) The Charter Township of Breitung may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per § 150.068.

(Ord. § 1421, passed 9-14-2009)

MISCELLANEOUS PROVISIONS

§ 150.270 INTERPRETATION AND CONFLICT.

In interpreting and applying the provisions of this chapter, they shall be held to be 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 chapter to repeal, abrogate, annul, or in any way impair or interfere with the existing and unrepealed 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 chapter imposes a greater restriction upon the courtyards or other open spaces that are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this chapter shall control.

(Ord. § 1301, passed 9-14-2009; Ord. § 1301, passed 11-9-2015)

§ 150.271 SEVERABILITY.

(A) This chapter and the various parts, sections, subsections, and clauses, thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional, or invalid as applied to a particular property, building, or structure, it is hereby provided that the application of such portion of the chapter to other property, buildings, or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing any conditional use permit, variance, zoning compliance permit, site plan approval, or designation of Class A nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

(B) If, after adoption of this chapter by the Township Board, a valid petition is filed with the Township Clerk placing this chapter before the voters for their approval or rejection, upon election, should this chapter be rejected, then the Township would automatically revert back to the proceeding Breitung Township Zoning Ordinance, Ordinance #1-2009, adopted September 14, 2009.

(Ord. § 1302, passed 9-14-2009; Ord. § 1302, passed 11-9-2015)

§ 150.272 VESTED RIGHT.

Nothing in this chapter 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.

(Ord. § 1303, passed 9-14-2009; Ord. § 1303, passed 11-9-2015)

§ 150.273 EFFECTIVE DATE.

This chapter shall take effect following adoption by the Breitung Township Board and upon publication in accordance with provisions and procedures of Act 110 of the Public Acts of 2006, as amended.

(A) Adopted: November 9, 2015.

(B) Published: December 4, 2015.

(Ord. § 1305, passed 9-14-2009; Ord. § 1305, passed 11-9-2015)

AMENDMENTS AND REZONING

§ 150.290 AUTHORIZATION.

Amendments to this chapter may be made as necessary, and shall be made in accordance with the procedures in this chapter and the Michigan Zoning Enabling Act of 2006.

(Ord. § 1501, passed 11-9-2015)

§ 150.291 REZONING.

For the purposes of this subchapter and other applicable sections of this chapter, the term "rezoning" shall be considered an amendment to the Zoning District Map. The procedure for rezoning shall follow the procedure set forth in this subchapter for amendments.

(Ord. § 1502, passed 11-9-2015)

§ 150.292 INITIATION OF AMENDMENTS.

Proposals for amendments may be initiated by the Township Board, Planning Commission, or any person or persons having a property interest in the land sought to be rezoned.

(Ord. § 1503, passed 11-9-2015)

§ 150.293 GENERAL PROCEDURE.

Except as provided in §150.294, the procedure for proposals by owners of property shall be set forth in this §150.293.

(A) Each petition by one or more owners or their agents, to amend the text or map (re-zoning) of this chapter shall be submitted upon an application of standard form to the Zoning Administrator. A fee as established by the Township Board shall be paid at the time of application. The Zoning Administrator shall transmit the application and other information to the Planning Commission for its consideration and recommendation.

(B) The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as set forth in the Township Master Plan, as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the amendment petition. Following the notice and hearing requirements of this section, the Planning Commission shall forward a recommendation on the proposed amendment along with a copy of the public hearing minutes to the Township Board and the County Planning Commission. In the event that the County Planning Commission has waived its right of review, no submission to that body shall be necessary.

(C) Before making a recommendation on any proposed amendments to this chapter, the Planning Commission shall conduct a public hearing, with notice being given by the township as specified in divisions (D) and (E) below. Said notice shall contain the time, place, date and purpose of the hearing, the name of the applicant, a description of the property to be rezoned and the requested zoning change or, if a text change, an outline of the proposed amendment and where and when the text of the proposed amendment may be examined.

(D) Notice shall be given by publication in a newspaper of general circulation in the township not less than 15 days before the date of the hearing.

(E) Mailed or delivered notice shall be made in accordance with the following:

(1) To each railroad, electric, gas, pipeline, and telephone company that registers its name and mailing address with the township for the purpose of receiving such notice. Said notice shall be made at least 15 days in advance of the hearing.

(2) To each owner of property as listed on the most recent tax roll of all real property located within 300 feet of the area proposed for a map amendment. An affidavit of the delivery shall be filed with the Planning Commission. Said notice shall be given not less than 15 days before the date the request will be considered.

(3) To each occupant(s) of all structures within 300 feet of the area proposed for a map amendment. An affidavit of the delivery shall be filed with the Planning Commission. Said notice shall be given not less than 15 days before the date the request will be considered.

(4) To the applicant and/or owner of the property in question.

(F) Following the Planning Commission's public hearing, the proposed zoning amendment(s), including zoning map(s), shall be submitted by the Planning Commission to the Dickinson County Planning Commission (unless they have waived

their review) for its recommendation. Upon receipt of the Dickinson County Planning Commission's recommendation (unless waived) or expiration of 30 days, the Township Board shall review both the county and the Township Planning Commissions' recommendations.

(1) The Township Board may hold its own public hearing if it considers it necessary. The Township Board shall also grant a hearing on the proposed amendment(s) to any interested property owner who has filed a written request for such a hearing with the Township Clerk. Said request shall be delivered by certified mail. The Planning Commission may be requested to attend the hearing. Notice of the hearing shall be published in a newspaper of general circulation within the township. The notice shall be published not less than 15 days prior to the hearing.

(2) If the Township Board deems advisable any changes or additions to the amendment(s) recommended by the Planning Commission, it shall refer the changes or additions back to the Planning Commission for a report thereon within 30 days. After receiving the report, the Township Board shall grant a hearing on the proposed amendment(s) as is specified in division (F)(1) above.

(G) Following a hearing or review of the Planning Commission's report, the Township Board by majority vote of its membership may adopt or reject the proposed amendment(s) with or without changes. Any proposed added, significant element of regulation or proposed added land area to be changed in zoning classification, which did not do through the required public hearing process, shall be submitted through the required public hearing process before being considered for further action. A lessor portion (either regulations or land area) of a proposed amendment, which has received full public hearing consideration, may be considered for further action without a new public hearing process.

(H) If no effective date is specified, the amendment(s) will take effect 15 days after publication of the notice of adoption.

(I) The amendment(s) shall be filed with the Township Clerk and one notice of adoption shall be published in a newspaper of general circulation within 15 days after adoption. The notice shall contain:

(1) Either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s);

(2) The effective date of the amendment(s); and

(3) The time and place where a copy of the amendment(s) may be examined.

(J) An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific land may be adopted by the Township Board and the notice of the adopted amendment published without a hearing or referring the amendments to any other board or agency provided for in this chapter.

(Ord. § 1504, passed 11-9-2015)

§ 150.294 CONDITIONAL REZONING.

(A) *Purpose and intent.* It is recognized that there are certain instances where it would be in the best interests of the Charter Township of Breitung as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a procedure consistent with the provisions of § 405 of the Michigan Zoning Enabling Act 110, 2006, (M.C.L.A. § 125.3405), as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(B) *Application and offer of conditions.*

(1) An owner of land may voluntarily offer in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer shall be made at the time the application for rezoning is filed.

(a) The applicant is advised, that the Planning Commission and the Township Board will review the applicant's proposal in relation to the Township Master Plan. If there are any conflicts or potential conflicts between the applicant's proposal and the Township Master Plan, it would be wise for the applicant to address the conflict(s) or potential conflict(s), and possibly offer condition(s) that would eliminate or lessen conflict(s), or provide compensation(s) for the conflict(s).

(b) The applicant is also advised, that the Planning Commission and the Township Board will review the applicant's proposal in relation to the surrounding zoning and surrounding existing land uses. If there are any conflicts or potential conflicts, it would be wise for the applicant to also address these conflict(s) or potential conflict(s), and possibly offer condition(s) that would eliminate or lessen conflict(s), or provide compensation(s) for the conflict(s).

(c) The applicant is also advised, that if their proposal would create, or potentially create problems with any public services, it would also be wise to possibly offer condition(s) to address these problems.

(d) The township through their master planning process and the development of their zoning ordinance and zoning map have already considered to a significant degree, what is in the long term interests of the public's health, safety, and general welfare. The presumption of validity therefore, is with the existing Township Master Plan and Zoning Ordinance. The township therefore is not likely to well receive a request in conflict with the existing Master Plan and/or Zoning Ordinance without cause or conditions to eliminate or lessen such conflicts or compensation for such conflicts to the injured party(ies).

(2) The required application and procedure for considering a rezoning request with conditions shall be the same as that

for considering rezoning requests made without any Offer of Conditions, except as modified by the requirements of this section.

(3) The owner's Offer of Conditions may not purport to authorize uses or developments not permitted in the requested zoning district.

(4) The owner's Offer of Conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(5) Any use or development proposed as part of an Offer of Conditions that would require a conditional use permit under the terms of this chapter may only be commenced if a conditional use permit for such use or development is ultimately granted in accordance with the requirements as set forth in §§ 150.125 through 150.140.16 of this chapter.

(6) Any use or development proposed as part of an Offer of Conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the requirements as set forth in §§ 150.180 through 150.187 of this chapter.

(7) Any use of development proposed as part of an Offer of Conditions that would require Site Plan Approval under the terms of this chapter, may only be commenced if Site Plan Approval for such use or development is ultimately granted in accordance with the requirements as set forth in this chapter in §§ 150.105 through 150.113, Site Plan Review.

(8) The Offer of Conditions may be amended during the process of rezoning provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of their Offer of Conditions any time prior to final rezoning action by the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original re-zoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(C) *Planning Commission review.* The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this chapter, §§ 150.290 through 150.295, Amendments and Rezoning, may recommend approval, approval with recommended changes or denial of the rezoning provided, however, that any recommended changes to the Offer of Conditions are acceptable to and thereafter offered by the owner.

(D) *Township Board review.* After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in § 150.293 of this chapter. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the Offer of Conditions, are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with § 11 of the Township Zoning Act (M.C.L.A. § 125.281), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(E) *Approval.*

(1) If the Township Board finds the rezoning request and Offer of Conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the chapter adopted by the Township Board to accomplish the requested rezoning.

(2) The Statement of Conditions shall:

(a) Be prepared in a form recordable with the Dickinson County Register of Deeds or, as an alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.

(b) Contain a legal description of the land to which it pertains.

(c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

(d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit of Memorandum giving notice thereof shall be recorded by the Township Clerk with the Register of Deeds of Dickinson County.

(f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

(3) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

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

the Statement of Conditions.

(F) *Compliance with conditions.*

(1) Any person who establishes a development or commences a use upon land that has been Re-zoned with Conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions.

(2) Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by the law.

(3) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable Statement of Conditions.

(G) *Time period for establishing, developing, or use.* Unless another time period is specified in the chapter rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits shall be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if:

(1) It is demonstrated to the Township Board's satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion.

(2) The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(H) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the 18 month time-frame specified under division (G) above, then the land shall revert to its former zoning classification as set forth in M.C.L.A. § 125.286i. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(I) *Subsequent rezoning of land.* When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to division (H) above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Dickinson County Register of Deeds, a notice that the Statement of Conditions is no longer in effect.

(J) *Amendment conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to division (G) above or during any extension thereof granted by the Township Board, Township Officials shall not add to or alter the conditions in the Statement of Conditions.

(2) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning procedures and Statement of Conditions.

(K) *Township right to rezone.* Nothing in the Statement of Conditions nor in the provisions of this section shall be deemed to prohibit the township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Township Zoning Act (M.C.L.A. §§ 125.271 *et seq.*).

(L) *Failure to offer conditions.* The township shall not require an owner to Offer Conditions as a requirement for rezoning. The lack of an Offer of Conditions shall not affect an owner's rights under this chapter.

(Ord. § 1505, passed 11-9-2015)

§ 150.295 PROCEDURE FOR REZONING PETITIONS TO PERMIT THE EXTRACTION OF NATURAL RESOURCES.

(A) *Introduction.*

(1) The following procedure shall apply to applications for rezoning property to permit the extraction of natural resources in accordance with M.C.L.A. §§ 125.3205(3) *et seq.* enacted by Act 113, PA 2011 ("Act 113") with regard to property not situated within the RP, Resource Production District established in this chapter. An application to permit the extraction of natural resources on properties that are situated in the RP, Resource Production zoning district shall be governed by § 150.027. An application to permit the extraction of natural resources on properties that are not situated in the RP, Resource Production zoning district shall be governed by this section.

(2) In conformance with Act 113, an application under this section shall be divided into two parts.

(a) Part (1) addresses whether the applicant has a sufficient property interest in the natural resource, whether valuable natural resources are located on the applicant's property, and whether there is a need for the natural resource sought to be extracted. Part (1) shall consist of an administrative proceeding. The Planning Commission shall conduct an initial hearing and make findings and a recommendation to the Township Board.

(b) Part (2) addresses the decision on whether the proposed extractive operation would be appropriate in the township in the context of whether or not very serious consequences would result from the extraction of the resource. Part (2) shall only be necessary in the event the applicant has satisfied the requirements of Part (1).

(B) *Findings.*

(1) As the Michigan Supreme Court determined in *Kyser v Kasson Township*, 486 Mich 514, 518 (2010) "In 1988, there were seven gravel mines operating in the township, and over the following six years, there were seven rezoning applications submitted to the Township Board to allow for additional gravel mining, resulting in both litigation and the establishment of new mining operations. In response, the township took several steps to address its overall mining policy, culminating in the establishment of a gravel mining district in accordance with the ZEA" ("Zoning Enabling Act" for clarification).

(2) The Gravel Mining District in Kasson Township encompasses 3,100 acres, or over five square miles and was adopted as part of the 1995 Master Plan (amended in 2004) and incorporated in the 1997 Zoning Ordinance. The defined Gravel Mining District was intended, and continues to be intended, to protect the township's stability and quality of life from the threats of Ad Hoc rezoning applications and approvals of gravel extraction operations in unplanned locations without notice to surrounding properties, and without consideration of the township's long-term land-use planning concerns. The Gravel District was also intended to ensure that sufficient land was zoned to satisfy the need for gravel resources for the foreseeable future. Breitung Township has over five square miles in the RP, Resource Production zoning district which permit natural resource extraction.

(3) The Kasson Township's study and approval of its Gravel District were actions directly and critically related to the public health, safety, and welfare in the township, expressly recognized to be important considerations in Act 113.

(4) Moreover, because the provisions of Act 113 are a part of the broader Zoning Enabling Act, under the rules of statutory construction recognized in *Kyser*, the exception to general rules of zoning and planning, set forth in Act 113, must be construed narrowly, and the applicant has a heavy burden to demonstrate that no very serious consequences will result from a change in the planning and zoning established in the township and relied upon by township property owners with respect to the established Gravel Mining District.

(5) Act 113 specifies that the standards in *Silva v Ada Township*, 416 Mich. 153 (1982) ("Silva") shall be applied in reviewing an application to permit the extraction of natural resources. As dictated by *Silva*, the existing zoning ordinance, including the existing boundaries of the Gravel Zoning District, shall be presumed to be reasonable. Likewise, existing boundaries of the RP, Resource Production zoning district in Breitung Township's case is also presumed to be reasonable.

(6) While Act 113 establishes a "hybrid" analysis for zoning decision-making, Act 113 remains within the context of land use decision-making that is within the Zoning Enabling Act as a whole. Accordingly, in any decision to rezone additional property into the RP, Resource Production zoning district, the township must consider the decision's effect not only upon a specific project or property, but also upon the impact upon the surrounding area, future planning and all projects in the township.

(C) *Definitions.*

(1) As used in this section, the phrase "Need for the Natural Resources," shall represent the phrase included in M.C.L.A. § 125.3205(4): "Need for the Natural Resources by the person or in the market served by the person". **NEED FOR THE NATURAL RESOURCES** shall mean a demonstrable need for a commercially meaningful quantity of the natural resources proposed to be excavated on the applicant's property. Demonstrating such a need shall require the applicant to show either of the following in relation to the natural resources on applicant's property: a commercial need for the natural resources to satisfy a current and ongoing requirement by an active business operated principally by the applicant using the natural resources in the production of a final product for sale that is different than the natural resources; or a present commercial need by purchasers of such natural resources from the applicant's property. For purposes of this definition of **NEED FOR THE NATURAL RESOURCES**.

(a) **COMMERCIAL NEED** in relation to applicant's property will only be deemed to exist to the extent, if any, that the need for the natural resources cannot otherwise be met within the commercial market.

(b) **COMMERCIALLY MEANINGFUL QUANTITY** shall mean that quantity, taking into consideration the quality and type of natural resources, that a person who is experienced and knowledgeable in the industry would require as a condition to expending the time and money necessary to commence and operate a mining enterprise that is expected to be profitable for a sustained period of time.

(c) **COMMERCIAL MARKET** means that geographic area within which there would be a commercial demand for the natural resources from the applicant's property, considering factors including, but not limited to: the transportation expenses and other factors relevant to cost; and the actual or available alternative supply of the natural resources from active mining sites and vacant land classified to permit mining within the township's RP, Resource Production zoning district, as well as other active mines, quarries, and vacant land classified for such purpose that could provide an alternative supply to meet such demand in whole or part.

(2) As used in this section, the terms **NATURAL RESOURCE** and **NATURAL RESOURCES** shall mean and include **GRAVEL**, as well as other minerals.

(3) As used in this section, the phrase **SUFFICIENCY OF APPLICANT'S PROPERTY INTEREST** shall mean a requirement that, with regard to the land which is the subject of the application, applicant has, as a matter of substance, a "possessory property interest" in the land, as that term is understood in Michigan real property law, including, but not limited

to a fee simple interest. An option to purchase a possessory interest shall not be a sufficient property interest.

(D) *Administrative procedure.*

(1) The process of review for a request to permit the extraction of natural resources on properties that are not situated in the RP, Resource Production zoning district shall be commenced by the applicant filing an application for an administrative determination with regard to the following, consistent with the terms defined above:

(a) The sufficiency of the applicant's property interest; and

(b) A determination as to whether there are "valuable" natural resources on the applicant's property, that is, whether the applicant can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted; and

(c) The need for the natural resources. This determination shall include the duration of the need.

(d) The application submitted by the applicant shall provide written documentation and evidence describing in detail and making the requisite demonstration with regard to each of the three determinations. The Planning Commission shall conduct an administrative hearing on the application, which shall be a public hearing. Prior to the hearing, the Zoning Administrator shall review the application and documentation submitted in support of the application, and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The hearing on the issues specified in divisions (a) through (c), above, shall not be noticed until the applicant has cured the deficiencies, if any, found to exist in accordance with this procedure. Public notice of the hearing shall be provided in conformance with § 150.293.

(2) At the hearing the applicant shall have the initial burden of showing:

(a) The sufficiency of the applicant's property interest; and

(b) That the natural resources are "valuable," that is the petitioner can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted; and

(c) The need for the natural resources. This determination shall include the duration of the need.

(3) The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in division (2), above. At the completion of the applicant's presentation, the Township Zoning Administrator and/or Township Planner, any expert retained by the township or other interested person and all interested citizens may address and offer evidence or argument on these issues.

(4) Following completion of the public hearing, the Planning Commission shall make findings and a recommendation on whether the applicant has made a sufficient showing on each of the determinations in division (2), above.

(5) The Planning Commission shall forward its findings and recommendation to the Township Board which shall, taking into consideration the Planning Commission's recommendation, then make its own findings and conclusions on each of the determinations in division (2), above. The Township Board may conduct an additional public hearing at its discretion. If the Township Board does schedule an additional public hearing, notice shall proceed in conformance with § 150.293.

(6) *Appeal.* With regard to all findings and conclusions made by the Township Board, an aggrieved applicant or other interested party may appeal to the circuit court.

(E) *Legislative procedure.*

(1) *Standards for review.* The following standards shall be applied for the purpose of determining whether the applicant has proven that "no very serious consequences" would result from the applicant's proposed extraction, by mining of natural resources, to the extent each is relevant:

(a) The relationship of applicant's proposed extraction and associated activities with existing land uses; and

(b) The impact of applicant's proposed extraction and associated activities on existing land uses in the vicinity of the property; and

(c) The impact of applicant's proposed extraction and associated activities on property values in the vicinity of the property and along the proposed hauling route serving the property; and

(d) The impact of applicant's proposed extraction and associated activities on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property; and

(e) The impact of applicant's proposed extraction and associated activities on identifiable health, safety, and welfare interests in the township. For purposes of this provision, "health, safety, and welfare" shall have the meaning attributed to such terms by the courts, e.g., *Berman v Parker*, 348 U.S. 26 (1954); *Village of Belle Terre v Boraas*, 416 US 1 (1974), *Kyser* (majority opinion), *Cady v City of Detroit*, 289 Mich. 499 (1939), and *Hess v Charter Township of West Bloomfield* 439 Mich. 550 (1992), including the manner in which such meaning has been expressed by the township legislative body in the Master Plan and Zoning Ordinance, read as a whole, including the crucial and material stability and quality of life achieved by establishing the fixed boundaries of the Gravel Zoning District [RP, Resource Production zoning district in Breitung Township's case] (e.g. dissenting opinion of Judge (later Justice) Davis in the Court of Appeals opinion in *Kyser v Kasson Township*, 278 Mich.App. 743, 773 [referenced with approval by the Michigan Supreme Court in *Kyser*, 486 Mich. 514, 519 (2010)]); and

(f) The overall public interest in the extraction of the specific natural resources on the property; and

(g) Any other standard from Silva.

(2) *Burden of proof.* Considering that the boundaries of the RP, Resource Production zoning district are presumed reasonable, as dictated by Silva, at 162, and taking into consideration that zoning regulations seek to serve the interests of the community as a whole, Silva, at 158, the applicant shall have the burden of overcoming the presumption of validity of the boundaries of the RP, Resource Production Zoning District, including the burden of proving that, if approved, the applicant's proposed extractive operation would result in "no very serious consequences," as such standard is defined above.

(3) *Review process - Planning Commission.*

(a) The applicant shall submit an application to amend the RP, Resource Production Zoning District to permit natural resource extraction on the applicant's property if the Township Board has found and concluded under § 150.295(D) that the applicant has shown all of the following in the administrative procedure provided for above:

1. The sufficiency of applicant's property interest; and

2. That the resources sought to be extracted are "valuable," that is the petitioner can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted; and

3. The need for the natural resources.

(b) The application submitted by the applicant shall provide written documentation and evidence describing in detail and making the requisite demonstration with regard to each of the criteria on the issue of whether "no very serious consequence" shall result in relation to the property and haul route, and in the community, as set forth in M.C.L.A. § 125.3205(5) and as defined above. Prior to conducting a public hearing, the Zoning Administrator shall review the petition and documentation submitted in support of the application, and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The public hearing on the application to amend the RP, Resource Production zoning district shall not be noticed until the applicant has cured the deficiencies, if any, found to exist in accordance with this procedure. Notice shall be given in accordance with § 150.293.

(c) The Planning Commission shall conduct a public hearing on the application. The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in this division (E). At the completion of the applicant's presentation, the Township Zoning Administrator and/or the Township Planner, any expert retained by the township or other interested person and all interested citizens may address these issues.

(d) Following completion of the public hearing, the Planning Commission shall make findings and a recommendation on whether the applicant has made a sufficient showing on whether there would be "no very serious consequences" as a result of the proposed natural resources extraction operation, as defined in this section.

(e) Following all of the hearing procedures and requirements specified above, the Planning Commission shall forward its findings and recommendation on whether to amend the boundaries of the RP, Resource Production Zoning District to include the applicant's property in accordance with § 150.293(F).

(4) *Review process - review by County Planning and Township Board.* The proceedings following the findings and recommendation of the Planning Commission shall be in accordance with § 150.293 of this chapter, subsections (F) through (I), above. As part of the Township Board's action of adopting or rejecting the proposed amendment of the boundaries of the RP, Resource Production Zoning Districts (with or without changes as provided in § 150.293(G), if the Board adopts the proposed amendment, the Board may consider that "extraction of natural resources is frequently a temporary use of the land and that the land can often be restored for other uses, and appropriate assurances with adequate security can properly be demanded as a precondition to the commencement of extraction operations." Silva, at 160-161. Thus, the Board may take into consideration its findings with regard to the matter of "need for the Natural Resources" and/or "public interest" with the view that, if reasonably feasible, a finite time period in which the applicant shall have a vested right to undertake the extractive operation shall be established, and following such time period, applicant shall be required to demonstrate a new "need for the Natural Resources" and/or "public interest" as a condition to being entitled to continue the use. If such a time period is included in the Board's adoption of an amendment to the RP, Resource Production zoning district with regard to the property at issue, the property owner shall not be authorized to make any improvements on the property and commence any operation unless and until the owner of the property files an affidavit with the Register of Deeds attaching the adoption action of the Board under this section, including any such time limitation. At the conclusion of the time limitation established for mining, if any, as such time may be extended consistent with this provision, the township may rezone the property to a new reasonable classification. In such event, after giving the property owner a right to a hearing before the Township Board, the Board may order the stoppage of all mining activities and a reclamation of the property.

(Ord. § 1506, passed 11-9-2015)

§ 150.999 PENALTY.

(A) *Minor civil infractions.* Any land use or structures that are in violation of the provisions of this chapter are hereby declared to be a public nuisance and may be enjoined or subject the violator to the penalties and remedies as outlined below.

(1) Any person who violates the provisions of this chapter shall be deemed to be responsible for a civil infraction and

shall be subject to a civil penalty of not more than \$500 for each infraction. Each day that a violation continues to exist shall constitute a separate infraction. Such penalties shall not preclude any other civil action against the violator for injunctive or other relief.

(2) The chapter may be enforced by the Supervisor of the Township, by the ordinance enforcement officer(s), and by the Zoning Administrator of the Charter Township of Breitung, or by any other person(s) as the Township Board may, by resolution, from time to time, designate.

(B) *Remedies.* The Township Board may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this chapter. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this chapter.

(Ord. § 1304, passed 9-14-2009; Ord. § 1304, passed 11-9-2015)