



# Emmet County Zoning Ordinance



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# Emmet County

# ZONING ORDINANCE

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# County of Emmet

## State of Michigan

# Article 1

## Intent & Authority

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### Section 1.00 Purpose

The purpose of this Ordinance is to provide for the regulation of land development and the establishment of districts within Emmet County which regulate the use of land and structures to meet the needs of the citizens of the County for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, sewage disposal, water, energy, education, recreation, and other public services and facility requirements, and to promote public health, safety, and welfare; while promoting the goals, objectives, and strategies of the Emmet County Master Plan adopted pursuant to the [Michigan Planning Enabling Act, 2008 PA 33, as amended, MCL 125.3801 et seq.](#)

### Section 1.01 Authority

This ordinance is enacted pursuant to and in accordance with [2006 PA 110, as amended, \(being the Michigan Zoning Enabling Act, MCL 125.3101 et seq.\)](#), referred to as the "Michigan Zoning Enabling Act."

### Section 1.02 Short Title

This Ordinance shall be known and may be cited as the “EMMET COUNTY ZONING ORDINANCE” and may be referenced as “this ordinance” or "the ordinance.”

# Article 2

## Definitions

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### Section 2.00 Construction of Language

For the purposes of this ordinance, certain terms are defined to clarify the intent of the provisions of the ordinance. The following rules shall apply, except when clearly indicated otherwise:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this ordinance and any caption, the text shall control.
- C. The word “shall” is always mandatory and never discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future; words in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The phrase “used for” includes: “arranged for”, “designed for”, “intended for”, “continued for”, and “occupied for.”
- G. Unless the context clearly indicates otherwise, where a regulation involves two or more items, conditions, provisions, or events, the terms “and”, “or”, “either...or”, such conjunction shall be interpreted as follows:
  - 1. “And” denotes that all the connected items, conditions, provisions, or events apply in combination.
  - 2. “Or” indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- H. The term “person” includes an individual, firm, corporation, association, partnership, limited liability company, or other legal entity, or their agents.
- I. Any word or term not defined shall be assumed to have the meaning customarily assigned them.
- J. “County” shall refer specifically to Emmet County.
- K. Any necessary interpretation of this Ordinance shall be made by the Zoning Administrator.

## Section 2.01 Definitions

A

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**Abutting:** Having property or district line in common; e.g., two lots are abutting if they have property lines in common.

**Accessory building:** Any structure that is used for storage and does not have a door or other entranceway into a dwelling unit or the principal use on the property, the use of which is limited primarily to storage of inanimate objects. Accessory buildings do not include dwelling units except when used in conjunction with a permitted use in the zoning district.

**Accessory Dwelling Unit:** A residential dwelling unit located on the same property as a single-family dwelling and constructed as an accessory use to the single-family dwelling.

**Accessory use, or accessory:** A use which is clearly incidental to, customarily found in connection with and located on the same parcel as, the principal use to which it is related.

**Adult Day Care:** A facility designed to provide care and companionship for persons 18 years of age or older who need assistance or supervision during the day.

**Adult Foster Care Facility As defined by the Adult Foster Care Facility Licensing Act, Act 218 of 1979:** A home or facility that provides foster care to adults. Includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

**A. Adult Foster Care Family Home:** A private residence with the approved capacity to receive at least three (3) but not more than six (6) adults to be provided with foster care. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

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

**C. Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity to receive at least three (3) but not more than twelve (12) adults to be provided with foster care.

**Aggrieved person:** A person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

**Airport:** A complex of runways and buildings for the takeoff, landing, fueling and maintenance of aircraft, with facilities for passengers. Airport includes landing fields, aviation support, hangars,



fuel storage, aviation development and other functions related to aviation.

**Animal Shelter:** A place where stray, lost, abandoned or surrendered animals – mostly dogs and cats – are housed.

**Architectural features:** Architectural features of a building shall include cornices, eaves, gutters, courses, sills, lintels, bay windows, chimneys, decorative ornaments, or similar features.

**Assembly halls:** A structure intended to hold public meetings or meetings of an organization such as a school, church, or deliberative assembly, like a convention center.

**Assisted living home:** A type of home for the aged, which is a special combination of dependent housing, personalized supportive services and health care designed to meet the needs of those who need help with activities of daily living. Services provided in assisted living residences usually include: Three meals a day served in a common dining area; Housekeeping services; Transportation; Assistance with eating, bathing, dressing, toileting and walking; Emergency call systems for each resident's unit; Health promotion and exercise programs; Medication management; Personal laundry services; Social and recreational activities.

**Attic:** The unfinished space between the ceiling assembly and the roof assembly. An attic may also be finished habitable space that complies with the building code.

**Auto or Boat Repair facility:** An establishment for the mechanical and technical repairs to an automobile, truck, all-terrain vehicles, marine craft or boat.

**Automobile repair garage:** An enclosed building where the following services may be carried out: general repairs, engine rebuilding, reconditioning of motor vehicles; collision services, such as frame or fender straightening and repair, painting and undercoating of automobiles; and, similar repair activities.

**Automobile service station:** A place used for the sale of minor accessories (such as tires, batteries, mufflers, brakes, shock absorbers, window glass), quick oil change and lubrication and the servicing of and minor repair of automobiles.

**Automotive/Equipment Rental/Leasing:** An establishment where automobiles or equipment are rented or leased.

## **B**

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**Bar:** A business whose primary function is the serving of alcoholic beverages for consumption on the premises. Some establishments may also serve food, or have entertainment, but their main purpose is to serve alcoholic beverages. This definition includes taverns, night clubs, bars and similar facilities.

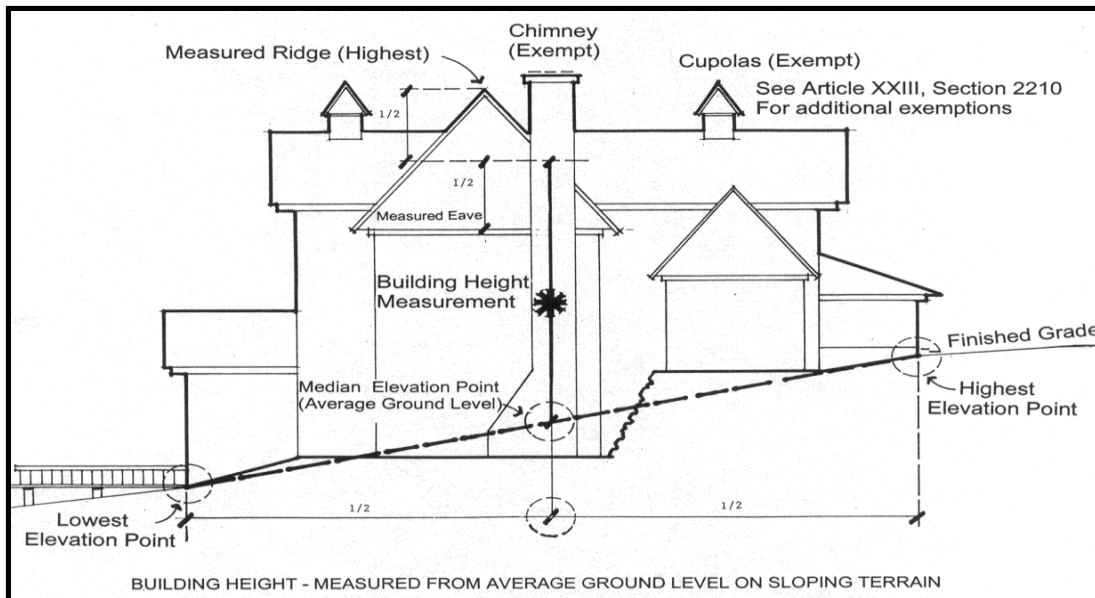
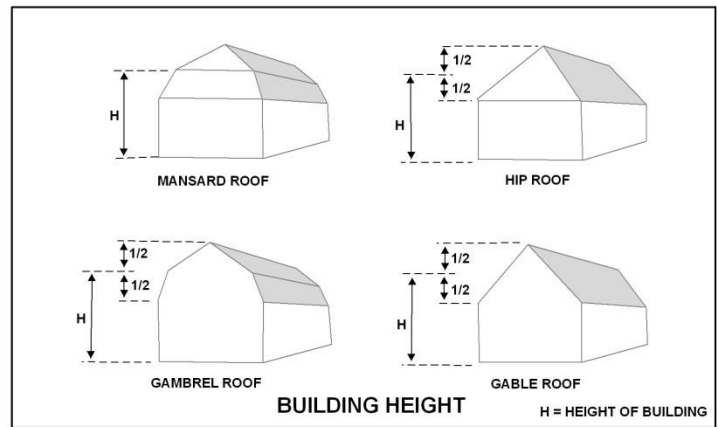
**Basement:** A story that is not a story above grade plane. (See current Michigan Residential Code for further definitions (story, story above grade plane, grade plane, etc.)

**Bed and breakfast:** An owner-occupied dwelling which offers overnight or temporary lodging for periods not exceeding 30 days, and which meals are provided to overnight guests only.

**Body Art Establishments.** For purposes of this Ordinance, Body Art Establishments are defined as business establishments where persons engage in any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other permanent substance resulting in coloration of the skin by the aid of needles or any other instruments designed to touch or puncture the skin.

**Building:** Any structure, either temporary or permanent, which has a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, or property of any kind.

**Building height:** The vertical distance measured from the uniform finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs, and to the average height between the highest eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain the height shall be measured from the average finished grade at the building wall. Average finished grade shall be determined by locating the mean between the extreme upper and lower finished grades per building elevation.



**Cabin court:** Two (2) or more cabins used for seasonal occupancy as dwelling or sleeping quarters for transients or tourists for a fee.

**Campground:** A parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units.

**Camping sites:** A place used for four or fewer camping units for overnight stay in an outdoor area. The term campsite generally means an area where an individual, family or group can pitch a tent or park a camper.

**Carwash:** A building containing equipment for washing cars or other vehicles automatically, or manually.

**Cemetery:** A place set apart for burial or entombment of the dead.

**Child care facility:** A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under [1973 PA 116, being M.C.L.A. §§ 722.111 through 722.128 as amended](#), and the associated rules promulgated by the [State Department of Health and Human Services](#). Such organizations shall be further defined as follows:

- A. **Family child care home:** A private home operated by a Michigan licensed day care operator in which at least one (1) but fewer than seven (7) children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
- B. **Group child care home:** A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than twelve (12) children are given care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
- C. **Child care center:** A facility, other than a private residence, receiving one (1) or more preschool or children under the age of 13 for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) 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 but does not include:
  - 1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than 3

- hours per day for an indefinite period or for not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are in the religious organization's care for not more than 3 hours while persona responsible for the children are attending religious services.
  3. A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
  4. A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

**Club or fraternal organization:** An organization of persons for special purposes or for the promulgation of sports, arts, science, agriculture, literature, politics, or similar activities, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the Constitution of the United States or any laws or ordinances. The facilities owned or used by such organization may be referred to as a club in this Ordinance.

**Clubhouse:** The main building, accessory to an approved use, which may include restrooms, locker room, pro shop, bar, and restaurant.

**Commission:** The Emmet County Board of Commissioners.

**Condominium project:** A plan or project consisting of not less than two condominium units established in accordance with Condominium Act (1978 PA 59 as amended (MCL 559.101 et seq.)) A condominium project is subject to the same zoning regulations as subdivisions created under 1967 PA 288, the Land Division Act, as amended. Where the terms recorded plat, subdivision, lot and/or parcel are referred to in this Ordinance, those references shall also apply to condominiums on lands dedicated for permitted uses within a condominium project, development, or building site plan. Condominiums are a form of ownership that may apply to detached building units and/or to attached building units, either residential and/or non-residential.

**Condominium subdivision plan:** The plan, as required in this ordinance, including, but not limited to, the 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.

**Condominium unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for



residential, office, industrial, business or recreational use, use as a timeshare unit, or any other type of use.

**Contractor:** A person or company that undertakes a contract to provide materials or labor to perform a service or do a job, for example electricians, plumbers, heating and building trades.

**Convention Center:** A large building, or group of buildings that is designed to hold a large meeting. May include assembly halls and concession and or a coffee shop or a deli.

**Cottage:** A dwelling unit occupied for seasonal, temporary, or second home purposes.

**Country Club:** A private social and recreation facility providing one or more of the following: golf, swimming, tennis, or similar activities and a club house for members, their families, and invited guests.

**County:** Where used in this ordinance, shall be the County of Emmet or Emmet County.

**Critical Dunes:** sand dunes generally along the Lake Michigan shoreline regulated by [Part 353, Sand Dunes Protection and Management](#), of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451 as amended.

**Crematorium:** A place where a dead person's body is cremated.

## **D**

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**Deck:** A structural platform without a roof or walls, usually projecting from the wall of a building. Also includes balconies.

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

**District:** The portion of the County within which certain regulations and requirements or various combinations thereof apply under the provisions of the Ordinance.

**Dock:** A structure built over, built in, or floating upon the water and used as a landing place for boats and other marine transport, and may be used for fishing, swimming, and other recreational uses.

**Drive-in/Drive-thru:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

**Driving Range:** A limited area on which patrons drive golf balls from a central driving tee, such area may include a snack-bar and pro-shop, but excludes miniature golf courses and golf courses.

**Dry Cleaning:** The process of cleaning a garment with an organic solvent, without using water.

**Dry Cleaning, central plants:** The process of cleaning a garment with an organic solvent, without using water in a location not open to the general public.

**Dwelling:** A building, or portion thereof, providing complete, independent living facilities for an individual or one family, including provisions for eating, sleeping, cooking, and sanitation. Dwellings are divided into the following classes:

- A. **Single-family dwelling.** A dwelling occupied by one (1) family, and so designed and arranged to provide eating, sleeping, cooking, and sanitation accommodations for one family only.
- B. **Two-family dwelling.** A dwelling occupied by two (2) families, and so designed and arranged to provide eating, sleeping, cooking, and sanitation accommodations for two families in two separate living units. A two-family dwelling is sometimes referred to as a duplex.
- C. **Multiple dwelling.** A dwelling occupied otherwise than as a private or two-family dwelling. Multiple dwellings include apartments, group homes, row houses, townhouses, multiplexes, and similar structures.

**E**

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**Educational Facility:** All public and private schools involved in the instruction and education of Pre-K through Grade 12. And/or an institution established for the primary purpose of teaching adult instruction and education, or for the purpose of teaching classes, specialties, and skills to any age group. Includes instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers, and employees.

**Erected:** Built, constructed, altered, reconstructed, moved upon, or any "physical" operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.

**Essential services:** The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead; gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, 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 equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

**Excavation:** Any breaking of ground, except common household gardening, landscaping, and soil tilling related to agricultural production or tree plantations.

**Family:**

- A. An individual or group of two (2) or more persons related by consanguinity, marriage, or adoption together with foster children or servants of the principal occupants, with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together, up to six (6) persons, in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. This definition also does not include halfway houses for prisoner re-entry and similar facilities. It also does not include medication-assisted treatment for substance abuse patients, substance abuse disorder treatment facilities, and similar facilities for those not recovered from substance abuse treatment such as sober living homes.

**Farm animal unit:** A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a 1,000 pound steer or heifer:

<u>Animal Type (one)*</u>	<u>Unit</u>
Slaughter and Feeder Cattle	1.000
Mature Dairy Cattle	1.430
Swine	0.400
Sheep and Lambs	0.100
Horse	2.000
Turkeys	0.018
Chickens	0.010

\* For animals not listed, the number of animal units shall be defined as the average weight of the animal by 1,000 pounds.

**Farm, commercial:** Includes the land, plants, animals, buildings, structures, including ponds used for agriculture or aquicultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. It is a farm operation producing a farm product intending to be marketed and sold at a profit.

**Farm, domestic:** A parcel of land used or intended to be used for agricultural purposes on properties other than Commercial Farms. Domestic farming includes keeping farm animals as pets and raising animals for educational experience (regulated per [Section 26.12](#)). Dogs, cats and other typical household pets are not regulated as a Domestic Farm (see Definition of Kennel).

**Farm operation:** The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes but is not limited to:

- A. Marketing produce at roadside stands or farm markets.
- B. The generation of noise, odors, dust, fumes, and other associated conditions.
- C. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the [Michigan vehicle code, 1949 PA 300, being sections 257.1 to 257.923](#) of the Michigan Compiled Laws.
- D. Field preparation and ground and aerial seeding and spraying.
- E. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- F. Use of alternative pest management techniques.
- G. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
- H. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
- I. The conversion from a farm operation activity to other farm operation activities.
- J. The employment and use of labor.

**Farm product:** Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquicultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Department of Agriculture and Rural Development (MDARD).

**Farm use building:** For a building to be considered a “Farm Use Building” the property must be actively farmed and considered a Commercial Farm by definition.

**Fitness Club:** A facility which provides exercise equipment or space for the purpose of physical exercise and may include locker rooms, showers, saunas, and related accessory uses. This use may also include dance studios.

**Financial Institution:** An establishment where the principal businesses are the receipt, disbursement or exchange of funds and currencies, such as, but not limited to: ATMs, banks, savings and loans, or credit unions.

**Floor area, gross:** The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude basements and attics.

**Food/beverage processing:** The transformation of agricultural products into food, or of one form of food into other forms. Food processing includes many forms of processing foods, from grinding grain to make raw flour to home cooking to complex industrial methods used to make convenience foods.

**Food/beverage packaging:** The science, art and technology of enclosing or protecting products for distribution, storage, sale, and use.

**Forest Products Processing:** Harvesting operations of trees, tree forms, including portable sawmills, log storage yards and related. Examples of these products include pulpwood, cordwood, lumber, and like products, the sawing of logs into lumber or the conversion of logs into ties, posts, pallets and similar products.

**Funeral Home:** An establishment where the dead are prepared for burial or cremation.

## **G**

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**Garage, Attached:** A portion of a main building designed or used for the storage of vehicles; owned and used by the occupants of the building to which it is accessory. To be considered attached, a garage must have either a door or other entranceway into a dwelling unit, or share a common wall.

**Gas Station:** A place primarily operated and designed for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories.

**Golf Course:** A tract of land laid out with a least nine holes, improved with tees, greens, fairways, and hazards designed for playing a game of golf, and shall not include miniature golf.

**Golf Course, Miniature:** A novelty version of golf played with a putter and a golf ball and typically comprised of nine or eighteen putting greens, each with a “cup” or “hole,” which may include obstacles such as bridges and tunnels.

**Grade:** When expressed as a percent slope, the vertical height of a slope per one hundred feet of horizontal run.

**Grade, finished:** For the purpose of regulating the number of stories and the height of buildings, the building grade shall be the level of the ground adjacent to the walls of the building upon completion of construction and improvements. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

## **H**

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**Helicopter:** A type of aircraft, piloted and occupied by a person, whose aerodynamic support is obtained from propeller rotation on an approximately vertical axis and that is capable of rising and descending vertically.

A. **Helistop:** An area on a roof or on the ground used by helicopters or steep-gradient aircraft

for the purpose of picking up and discharging of passengers or cargo with temporary helicopter parking provisions; but not including fuel service, maintenance or overhaul. This facility is not open to use by any helicopter without permission having been obtained by the property owner.

- B. **Heliport**: An area used by helicopters or by other steep-gradient aircraft which area can include any of the following: passenger and cargo facilities, maintenance and overhaul, fueling service, storage space, tie-down space, hangars and other accessory buildings and open spaces.
- C. **Touchdown and Liftoff Area** (TLOF) and **Final Approach and Takeoff Area** (FATO) – Used by the FAA to define the areas used for approach, departure, takeoff and landing of helicopters in designing Helipads. There will be a FATO and TLOF as defined and designed as per the FAA Advisory Circular for Heliport design criterion, (currently designated as FAA Advisory Circular 150/5390-2C). The location of the FATO will be the basis for setback rules and the like in the Ordinance.

**High risk erosion and environmental areas**: For the purposes of the [Section 22.11](#), the following definitions shall apply:

- A. **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 which accrete and erode depending on water level conditions would not be considered a permanent bluffline.)
- B. **Structure**: A permanent residential, commercial or industrial building not including stairways, docks or permitted underground utilities.

**Home based business**: A business conducted within a dwelling or accessory building by resident(s) of the dwelling unit as a secondary use that is clearly incidental to the residential use of the lot and dwelling. Up to three (3) persons may work with the resident(s).

**Home office**: Any residential premise using office equipment to conduct business entirely within a dwelling unit by resident(s) of the dwelling unit. The use must be clearly secondary to the residential use of the dwelling unit and no external signs of a business or industrial use shall be visible.

**Home occupation**: A business, other than a home office, conducted entirely within a dwelling carried on by the resident(s) of the dwelling unit as a secondary use which is clearly incidental to the residential use of the lot and dwelling.

**Hospital**: An establishment for human patients providing physical or mental health services, inpatient or overnight accommodations, and provides medical, surgical, nursing and related care of the sick or injured.

**Hotel**: A building or part of a building with a common entrance or entrances in which the dwelling units or rooming units are used primarily for transient occupancy. The hotel or motor inn is

distinguishable from a motel in that it is more than one story above the surface of the ground, has a common entrance, and may contain a restaurant, cocktail lounge and/or conference center facilities.

## **I**

**Impervious surface:** Any material which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground including building, asphalt, concrete, gravel, and other surfaces. For the purpose of calculating storm water runoff, impervious surfaces shall include all roofs, slabs, pavements, gravel drives, and parking lots.

**Indoor Recreation:** A development for sports and active recreation within an enclosed building. Indoor recreation facilities include such facilities as bowling centers, ice arenas, gymnasiums, curling rinks, swimming pools, and similar facilities. As well, indoor recreation facilities may also include meeting rooms and eating and drinking establishments as accessory uses.

**Industrial, light:** A business operated primarily for profit, including those of product manufacturing or conversion through assembly of new or used products or parts or through the disposal or reclamation of salvaged material, and including those businesses and service activities that are a normal integral part of an industrial manufacturing enterprise, industrial park, district, or area. For example, general manufacturing, metal plating, metal buffering and polishing, powder coating, galvanizing, metal cutting, slitting and shearing, central dry cleaning plants, ceramic products including pottery and glass created using a kiln, food and beverage processing, motor vehicle impoundments, laboratories, machine shops, tool and die shops, portable and temporary hot and cold mix asphalt plants, ready mix concrete plants, research, design, experimental product development all within a building, printing plants, meat packing plants, mineral processing facilities and operations, petroleum products, gas products, paint & chemical bulk storage and distribution, and other similar uses.

**Industrial, heavy:** A business operated primarily for profit, including those of product manufacturing or conversion through assembly of new or used products or parts or through the disposal or reclamation of salvaged material. For example, blast furnaces, steel furnaces, blooming or rolling mill, concrete manufacturing, gypsum, plaster of Paris, corrosive acid or alkali manufacturing, incinerator plant, oil and gas processing facilities, smelting industries, rail yard, slaughter house, and other similar uses.

## **J**

**Junk yard/Junk Storage:** An open area where waste, and/or second hand materials are: bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap, abandoned vehicles, abandoned recreation vehicles or units or watercraft and other metals, paper, rags, tires, and bottles. It includes automobile wrecking yards and/or any area for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.



## K

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**Kennel:** Any establishment where domestic animals/pets are kept for purposes of breeding, boarding, sale, lease, trade, sport or training, except a duly licensed pet shop.

## L

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**Laboratories:** Rooms or buildings equipped for scientific experiments, research, testing, or teaching, or for the manufacture of drugs or chemicals. This definition includes medical laboratories.

**Landfill:** A disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an injection well, a salt dome formation, a salt bed formation, or an underground mine or cave ([1994 PA 451](#)).

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

- A. **Berms:** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this Ordinance.
- B. **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns in Emmet County, Michigan.
- C. **Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and groundcover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance.
- D. **Groundcover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- E. **Hedge:** A row of closely planted shrubs or low-growing trees which commonly form a continuous visual screen, boundary, or fence.
- F. **Hydro-seeding:** A method of planting grass where a mixture of the seed, water, and mulch is mechanically sprayed over the surface of the ground.
- G. **Interior parking lot landscaping:** A landscaped area located in the interior of a parking lot in such a manner as to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.
- H. **Mulch:** A layer of wood chips, dry leaves, straw, peat moss, bark, or similar organic material placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, and prevent the freezing of roots.

- I. **Nurse grass:** Any of a variety of rapidly-growing annual or perennial rye grasses used to quickly establish groundcover to prevent dust or soil erosion.
- J. **Screen or screening:** A wall, fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing or shipping containers.
- K. **Shrub:** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than 15 feet in height.
- L. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of 15 feet or more in Emmet County, Michigan.
  - 1. **Deciduous tree:** A variety of tree that has foliage that is shed at the end of the growing season.
  - 2. **Evergreen tree:** A variety of tree that has foliage that persists and remains green throughout the year.
- M. **Ornamental tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of 25 feet or less.
- N. **Shade tree:** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of 15 feet or greater in Emmet County, Michigan, and has a trunk with at least five feet of clear stem at maturity.
- O. **Vine:** A plant with a flexible stem supported by climbing, twining, or creeping along the surface, and which may require physical support to reach maturity.

**Landscaping contractor's operation:** A business engaged in the practice of improving building sites or other grounds by contouring the land and planting flowers, shrubs and trees. A landscaping contractor's operation typically consists of equipment, tools, vehicles and materials used in or associated with such a business.

**Lighting:** In reference to lighting standards, the following terms shall have the indicated meanings:

- A. **Artificial sky glow:** The brightening of the night sky attributable to man-made light sources which obscure stars, comets, the moon, northern lights, and other natural phenomena.
- B. **Canopy:** A roof-like covering over an area, that allows pedestrians/vehicles to pass in or under and upon which a light source is mounted.
- C. **Development project:** Any residential, commercial, industrial, institutional or mixed use construction project submitted to the County for approval.
- D. **Display lot or area:** Outdoor areas where active nighttime sales activity occurs and where accurate color perception of merchandise by customers is required.

- E. **Foot-candle**: A measure of light falling on a surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away.
- F. **Fully shielded light fixture**: A lighting fixture constructed so that all light emitted by the fixture, either directly from the light source, lamp, or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by photometric test or certification by the manufacturer. Any structural part of the lighting fixture providing this shielding must be permanently affixed.
- G. **Glare**: Light emanating directly from a light source, lamp, reflector or lens that creates visual discomfort or momentary blindness when viewed.
- H. **Lighting level measurement**: The measurement of outdoor light output from a luminaire expressed in footcandles. Lighting shall be measured with a properly calibrated light meter. Measurements shall be taken at final grade or in some cases when light is reflected on a vertical surface.
- I. **Light trespass**: Light falling where it is not needed or wanted, typically across property lines.
- J. **Luminaire: (light fixture)**: A complete lighting device consisting of one or more lamps or light sources along with the other components sufficient to produce light.
- K. **Outdoor light fixture**: An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, used for illumination or advertisement.
- L. **Maximum outdoor light output**: The maximum total amount of light, measured in footcandles from all outdoor light fixtures. For lamp types that vary their output as they age (such as high pressure sodium, fluorescent and metal halide) the initial output as defined by the manufacturer, is the value to be considered.

**Livestock**: Animals as defined under “[Farm Animal Unit](#).” Livestock includes horses, ponies, mules, cattle, calves, swine, sheep, poultry, privately owned cervids, ratites, aquaculture species and goats.

**Loading space**: A space for temporary parking of commercial vehicles while loading and unloading merchandise or materials.

**Lot**: A parcel of land occupied or intended to be occupied, used or intended to be used that is described by metes and bounds, tract of land, lot within a subdivision, or a site condominium unit. A lot may or may not be specifically designated as such on public records.

**Lot, corner**: A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot if the

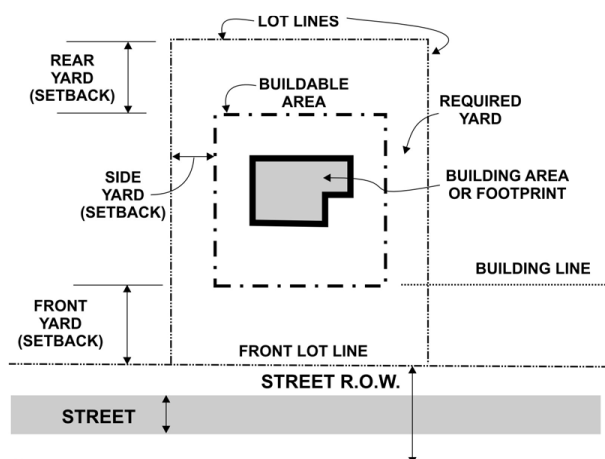
arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight line extended, form an angle of less than 135 degrees.

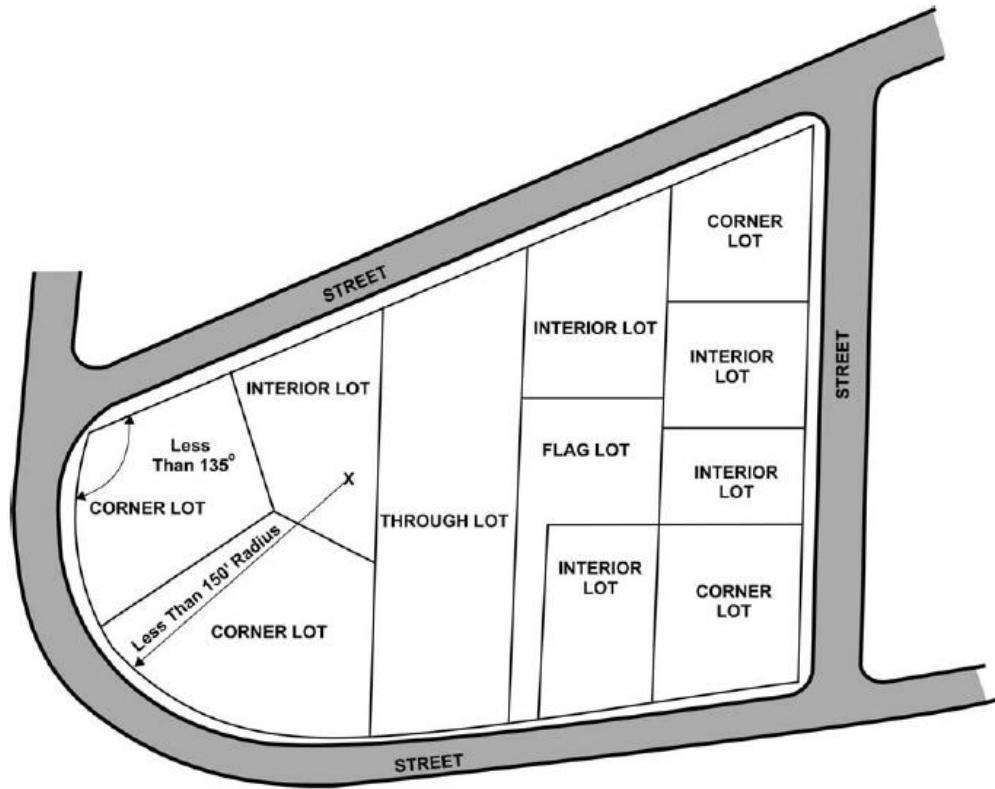
**Lot coverage:** That portion of the lot occupied by main and accessory buildings.

**Lot depth:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

**Lot lines:** The lines bounding a lot as defined:

- A. **Front Lot Line:** That line which creates the abutting street right-of-way line, adjacent private road/easement line, or the line where access is provided to the site.
- B. **Rear Lot Line:** That lot line opposite the front lot line, except on corner lots (corner lots have two front lot lines and two side lot lines). In the case of a lot pointed at the rear (pie shaped), the rear lot line shall be an imaginary line at least ten (10) feet long, parallel to the front lot line but inside the side lot lines.
- C. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.
  - 1. Side lot lines on properties in RR and/or SR Districts shall be constructed as continuous straight lines from the water's edge or from the access road, on a perpendicular or radial configuration. No such lot line shall be jogged or meandered to circumvent the minimum lot width requirement.
  - 2. Side lot lines may deviate from straight or radial in recognition of limitations related to topography, critical dunes, wetlands; or for planned developments where open spaces, greenbelts and common areas would result in a more satisfactory property use plan.



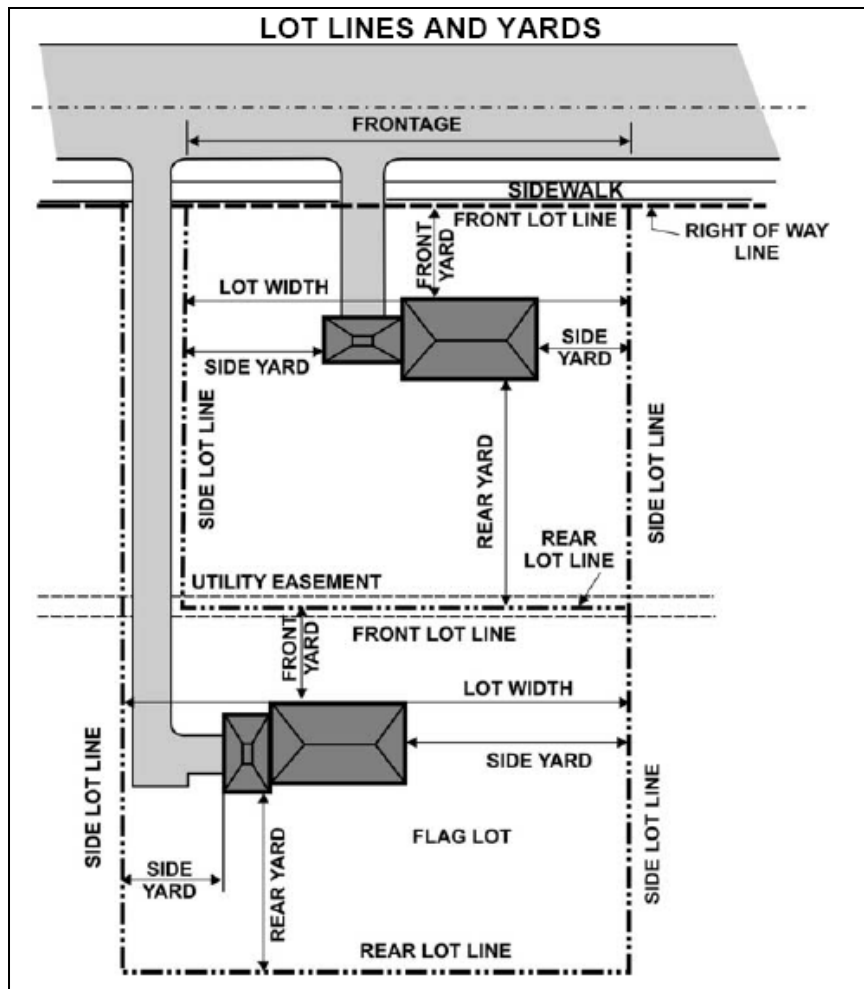


**Lot of record:** A tract of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by County officials, and which actually exists as so shown.

**Lot width:** The horizontal distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines determined as follows:

- A. For rectangular, square and/or parallelogram lots, the width shall be measured on a line constructed perpendicular to the side lot lines, which is not necessarily parallel to the road right-of-way line.
- B. For Pie shaped lots, either increasing or decreasing in width toward the rear, the lot width measurement shall be essentially on a line parallel with the road right-of-way line, or if on a curve, parallel with the chord of the arch between lot lines.
- C. For other irregularly shaped properties, the lot width shall be determined by the Zoning Administrator by applying a combination of the measuring rules above, or if otherwise not determinable, by a ruling of the Zoning Board of Appeals.

In cases where the side lot line is not at a right angle to the abutting road right-of-way line, then the lot width shall be measured on a line constructed perpendicular from the side lot line.



**M**

**Machine Shop:** A room, building, or company where machining, a form of subtractive manufacturing, is done. In a machine shop, machinists use machine tools and cutting tools to make parts, usually of metal or plastic (but sometimes of other materials such as glass or wood).

**Main building:** A building in which the principal use of the lot upon which it is situated is conducted.

**Main use:** The principal use to which the premises are devoted and the principal purpose for which the premises exist.

**Marina:** A facility, including three (3) or more waterfront boat slips, which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include eating, sleeping, and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina.

**Master plan:** The Emmet County Master Plan as may be amended or updated, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings

and other physical development features.

**Marijuana:** That term as defined in section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.

**Medical marijuana cooperative:** An organization owned and/or operated by a group of individuals for its mutual benefit (such as the distribution, exchange, processing, delivery, or cultivation of marijuana).

**Medical marijuana dispensary:** Any site, facility, location, use, cooperative, or business where more than one registered primary caregiver intends to or does distribute, exchange, process, deliver or give away marijuana for medical purposes to qualifying patients.

**Medical marijuana grow facility:** Any site, facility, or location where more than one primary caregiver grows marijuana for medical purposes.

**Medical marijuana grower:** A commercial entity licensed under Michigan Public Act 281 of 2016 that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

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

**Mezzanine:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the floor area of the story in which the level or levels are located.

**Meat Processing:** Processing livestock or game into meat products or processing meat products for sale commercially, generally a smaller scale than a meat packing plant.

**Meat Packing Plant:** The business or industry of slaughtering cattle and other meat animals and processing the carcasses for sale, sometimes including the packaging of processed meat products.

**Microbreweries:** A limited-production brewery, typically producing specialty beers and often selling its products only locally as defined by [State of Michigan law MCL 436.1109\(5\)](#).

**Mini-storage:** A building or structure containing separate individual storage units, designed to be rented or leased to the general public for storage of personal goods, materials and equipment.

**Mobile Home:** A structure that is transportable in one or more sections, built on a chassis, and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.



**Mobile Home Community:** A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**Motel:** A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door.

**Museum:** A public, tribal, or private nonprofit agency or institution organized on a permanent basis for essentially educational, cultural heritage, or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis. A building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited.

## N

**Non-conforming Structure:** A building or portion thereof lawfully existing at the effective date of this Ordinance or Amendment thereto that does not conform to the provisions of the Ordinance in the district in which it is located.

**Nonconforming use:** A use of property lawfully existing at the effective date of this Ordinance or Amendment thereto that does not conform to the provisions of the Ordinance in the district in which it is located.

**Nuisance:** 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, such as: noise, dust, smoke, odor, glare, fumes, flashes, vibration, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, and vehicle traffic.

**Nursery:** A space, building or structure or combination thereof, for the growing or storage of live trees, shrubs or plants offered for wholesale, or retail sale on the premises including products used for gardening or landscaping. This definition includes a greenhouse, or a building in which plants are grown that need protection from cold weather.

**Nursing home:** A care facility that provides organized nursing care and housing to seven or more unrelated individuals.

## O

**Office, professional:** A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government, including offices for such activities as real estate agencies, advertising agencies (but not sign shops), insurance agencies, travel agencies

and ticket sales, chambers of commerce, abstract and title agencies or insurance companies, stockbrokers, accountants, and the like. This definition includes health care offices, and clinics.

**Open Space:** Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.

**Outdoor display:** The display and sale of products and services outside of a building or structure, including, garden supplies, motor oil, food and beverages, burial monuments, building and landscape materials, and similar materials or items.

**Outdoor Recreation facilities:** A development for outdoor sports and active recreation. Outdoor recreation facilities include such facilities as baseball and softball fields, go karts, miniature golf, race tracks, tennis courts, pickle ball, lawn bowling, polo fields, swimming pools, archery ranges, disc golf and other similar uses.

**Outdoor performance facilities:** An open air building with a stage, on which plays, shows, concerts and other performances take place. This definition may include restroom facilities.

**Outdoor sales – lot:** The display and sales of products or services primarily outside a structure and limited to those items generally stored, used, or inspected including vehicles, boats, farm equipment, motor homes, modular homes, and similar items.

**Outdoor storage:** A land area occupied and used for open storage of products, building materials, sand, gravel, stone, lumber, equipment and other supplies.

**Outdoor vendor:** Person engaged in the sale of prepared food, fresh cut flowers or plants, agricultural products, artwork, crafts, wares, merchandise, articles of value, seasonal sales events, or any other use of a similar type of retail operation, from a stand, motorized vehicle, food trucks, non-motorized stationary or non-stationary cart or pushcart, or any type of sales not within an enclosed building.

## **P**

**Parcel:** A contiguous tract of land which at the time of filing for a Zoning Permit is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A Parcel may not coincide with a lot of record, but may include one or more lots of record.

**Parking Lot, Off-street:** A parking area off the street for the parking of four or more vehicles.

**Parking space:** An area of definite length and width for the storage or parking of a vehicle.

**Patio:** An uncovered floor usually made of concrete, brick, or other material, placed directly on the ground.

**Personal Services:** Commercial services such as catering and cleaning that supply the personal

needs of customers for example barber shops, salons, pest control and similar.

**Pet Care:** An establishment providing food and safety, nourishment, exercise, grooming and training to pets.

**Planned Unit Development:**

A form of development guided by a comprehensive site plan usually characterized by larger site areas, and which emphasizes residential use, provides for cluster building, includes dedicated common open space, and promotes an efficient layout of public utilities, all in accordance with a unified architectural theme.

The PUD may provide for mixed land uses and variety in building types. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis.

PUD is also a process, mainly revolving around site plan review, in which public officials share involvement in determining the nature of the development. It includes aspects of subdivision and zoning regulation and is implemented by District rezoning.

PUD standards are commonly used for housing developments, but may also be applied to other forms of development such as shopping centers, industrial and office parks, and to mixed use developments which may be in any combination, depending on Ordinance standards. Planned Unit Development encourages a more desirable and attractive development based on comprehensive site planning principles.

**Planning Commission:** for the purpose of this Ordinance, shall be the Emmet County Planning Commission.

**Places of Worship:** A building wherein persons assemble regularly for religious worship, maintained and operated by an organized religious body.

**Professional Cleaning Service:** A service rendered by a company which provides cleaning services as a regular source of income.

**Public utility:** A 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, transportation or water. (For the purposes of this Ordinance, personal wireless communication facilities are not included in the definition of a Public Utility.)

**R**

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**Race Track:** A course where animals or machines are entered in competition against one another or against time, including tracks used only for the training of animals or drivers. A racetrack may include seating, concession areas, suites, and parking facilities, but does not include accessory offices, residences, or retail facilities. This definition shall also include any facility used for driving automobiles or other motorized vehicles under simulated racing or driving conditions (test tracks,

“shakedown” tracks, or other similar facilities), but which does not include seating, concession areas, or retail facilities for the general public.

**Rain Garden:** A rain garden is a shallow, depressed garden that is designed and positioned on a site to capture stormwater runoff and allow for the infiltration of water back into the ground. Rain garden plants should be chosen for their ability to withstand moisture extremes and potentially high concentrations of nutrients and sediments found in stormwater runoff.

**Rail Yard:** A complex series of railroad tracks for storing, sorting, or loading and unloading railroad cars and locomotives.

**Reasonable Accommodation:** A change, modification, exception or adjustment to the ordinance that is needed for a person with a disability to use and enjoy a dwelling. A Reasonable Accommodation does not include an accommodation which would (1) impose an undue financial or administrative burden on the County; or (2) require a fundamental alteration to the nature of the County’s land use and zoning ordinance or policies.

**Recreational unit:** A tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, as defined by the [Public Health Code \(1978 PA 368, as amended\)](#).

**Recreation Vehicle Park (RV park):** A parcel on which sites are established for occupancy by recreational vehicles of the general public as temporary living quarters for purposes of recreation or vacation.

**Resort/Lodge:** An establishment complete with buildings, structures, grounds, and sanitary facilities providing lodging, and other amenities which may include outdoor recreation, convention, dining, and similar facilities.

**Restaurant:** A building or structure containing a commercial business where food and/or beverages are provided for sale or consumption, or where food is prepared and sold for consumption outside the building, including a cafe, coffeehouse, cafeteria, lunchroom, tearoom, drive-in, carry-out or other similar establishment. When an establishment where the preparation of food products, such as a grocery store, lunchroom, cafeteria, food market, or convenience store, is an accessory use to a primary use, such as the operation of a hospital, nursing home, boardinghouse, church, school, private manufacturing, or bed and breakfast use, that use shall not be considered a restaurant. This definition allows for outdoor dining.

**Residential human care and treatment facility:** A facility (not within a private residence) providing:

- A. Emergency shelter and services for battered individuals and their children in a residential structure;
- B. Shelter and services for individuals receiving care, counseling, crisis support and similar activities including court-directed services.

- C. Emergency shelter for individuals who are homeless.
- D. Services, programs and shelter for residents who are undergoing alcohol or substance abuse rehabilitation

**Retail Store:** A business established for the sale of goods and services to consumers. Examples include establishments such as clothing stores, convenience stores, electronics and appliance stores, florists, food and beverage stores, furniture and home goods stores, hardware stores, medical equipment sales, movie rental stores, office supply stores, pawn shops and resale shops, pet stores, pharmacies, photofinishing, shopping centers, sporting good stores, and other similar uses.

**Right-of-way:** A street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

**Rooming house:** A residential building where rooms or suites of rooms are rented where the renters use common facilities, such as hallways and bathrooms. A rooming house shall not include hotels, motels, apartment houses, multi-family dwellings, duplexes, or fraternity and sorority houses.

## S

**Sawmills:** A facility in which logs are sawed into lumber by a machine.

**Septage waste:** The fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these.

**Setback:** The required distance between every structure including eaves and the lot lines or waterfront of the lot on which it is located.

**Sexually-oriented businesses:** For purposes of this Ordinance, the words and phrases defined hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

- A. **Adult bookstore or adult video store** means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.”
- B. **A principal business activity** exists where the commercial establishment:
  - 1. has a substantial portion of its displayed merchandise which consists of the items,

or

2. has a substantial portion of the wholesale value of its displayed merchandise which consists of the items, or
3. has a substantial portion of the retail value of its displayed merchandise which consists of the items, or
4. derives a substantial portion of its revenues from the sale or rental, for any form of consideration of the items, or
5. maintains a substantial portion of its floor space for the display, sale, and/or rental of the items (aisles and walkways used to access the items shall be included in “floor space” maintained for the display, sale, or rental of the items), or
6. maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of the items (aisles and walkways used to access the items shall be included in “floor space” maintained for the display, sale, or rental of the items), or
7. regularly offers for sale or rental at least two thousand (2,000) of the items, or
8. regularly features the items and regularly advertises itself or holds itself out, by using “adult,” “adults-only,” “XXX,” “sex,” “erotic,” “novelties,” or substantially similar language, as an establishment that caters to adult sexual interests, or
9. maintains an “adult arcade,” which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting “specified sexual activities” or specified “anatomical areas.”

C. **Adult cabaret** means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

D. **Adult Motel**. A hotel, motel or similar commercial establishment which:

- a. Offers accommodations to the public for any form of consideration and provide patrons with closed-circuit television transmission, films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are regularly characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas" or which advertises the availability of this adult type of material by means of a sign, visible from the public right-of-way,

or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, internet or television; or

- b. Permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web; or
  - c. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - d. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- E. **Adult Motion Picture Theater** means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five (5) persons for any form of consideration.
- F. **Characterized by** means describing the essential character or quality of an item. As applied in this Article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.
- G. **Employ, employee, and employment** describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
- H. **Establish or establishment** shall mean and include any of the following:
- 1. The opening or commencement of any sexually oriented business as a new business;
  - 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
  - 3. The addition of any sexually oriented business to any other existing sexually oriented business.
- I. **Influential interest** means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice



president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

- J. **Nudity or a state of nudity** means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
- K. **Operate or cause to operate** shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who operates the business or is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.
- L. **Person** shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.
- M. **Premises** means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.
- N. **Regularly** means and refers to the consistent and repeated doing of the act.
- O. **Semi-nude or state of semi-nudity** means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- P. **Sexual device** means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
- Q. **Sexual device shop** means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

- R. **Sexual encounter center** shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.
- S. **Sexually oriented business** means an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a sexual device shop, or a sexual encounter center.
- T. **Specified anatomical areas** means and includes:
1. Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- U. **Specified criminal activity** means any of the following specified offenses, as amended from time to time, for which less than eight (8) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
1. Criminal sexual conduct ([MCL 750.520a B 750.520g](#)), child sexually abusive activity ([MCL 750.145c](#)), computer crimes against children ([MCL 750.145d\(1\)\(a\)](#));
  2. Prostitution-related offenses ([MCL 750.448 B 750.449a](#));
  3. Offenses related to obscenity ([MCL 752.365](#)) and material harmful to minors ([MCL 750.142 B 750.143](#));
  4. Indecent exposure ([MCL 750.335a](#));
  5. Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;
  6. Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.
- V. **Specified sexual activity** means any of the following:
1. Intercourse, oral copulation, masturbation or sodomy; or
  2. Excretory functions as a part of or in connection with any of the activities described in (a) above.
- W. **Substantial** means at least thirty-five percent (35%) of the item(s).
- X. **Viewing room** shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video

disc, or other video reproduction.

- Y. **Floor space** means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

**Shoreline bluff:** The dominant geologic land form consisting of a promontory, cliff, or palisade having a broad steep face, which, more or less, parallels the shoreline of Lake Michigan.

**Shoreline Greenbelt:** When bordering bodies of water, an undisturbed area of land paralleling the water's edge to a depth of the required zoning setback distance if not otherwise stipulated, which is kept in a natural condition and is essentially void of any structural improvements. Beaches and/or vegetated areas shall be defined as shoreline greenbelts.

**Signs:** The following terms relating to signs shall have the meaning defined below:

- A. **Banner:** A flexible sign made of natural, synthetic or plastic material used to call attention to a property; however, not including pennants or flags.
- B. **Changeable message sign:** A sign on which the message can be changed by hand, mechanically, or electronically.
- C. **Flag:** Usually a rectangular piece of fabric made of natural, synthetic or plastic material having a distinctive size, color and design.
- D. **Freestanding sign:** A sign supported by one (1) or more uprights, poles, braces, or some other structure, placed in or upon the ground surface and not attached to any building.
- E. **Illuminated sign:** A sign that provides artificial light by either emission (usually from inside) or reflection (usually either from light above or below the sign).
- F. **Non-conforming sign:** A sign lawfully existing on the effective date of this Ordinance which does not conform to one (1) or more of the regulations set forth in this Ordinance.
- G. **Pennant:** A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.
- H. **Portable sign:** A freestanding sign not permanently anchored or secured to either a building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.
- I. **Projecting sign:** A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.
- J. **Roof sign:** A sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.

- K. **Sign**: Any identification, description, illustration, display or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify or convey information. For the purpose of removal, signs shall also include all sign poles and similar supporting structures. Signs under one-square foot in size on or next to a door or on a mailbox or post are not regulated by this Ordinance.
- L. **Sign, accessory**: A sign which is accessory to the principal use of the premises.
- M. **Sign face**: That part of a sign structure which is used to graphically communicate a message or announcement.
- N. **Temporary sign**: A display sign, or advertising device with or without a structural frame, intended for a limited period of display.
- O. **Wall-mounted sign**: A sign which is attached directly to or painted upon a building wall which does not project more than twelve (12) inches there from. The exposed face of the sign must be in a plane parallel to the building wall or structure (such as a water tower). The sign shall not extend above the height of the building, wall or structure.

**Site condominium (condominium subdivision)**: A method of subdivision where the sale and ownership of sites is regulated by the [Condominium Act \(1978 PA 59, as amended MCLA 559.101\)](#) as opposed to the [Subdivision Control Act of 1967 \(MCL 560.101\)](#). Condominium subdivision shall be equivalent to the term "subdivision" as used in this Zoning Ordinance.

**Site condominium subdivision plan**: Means the 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.

**Site plan**: The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

**Solar:**

- A. **Ground-Mounted Solar Installation**: A private system installed as an accessory structure on the ground of a parcel that converts sunlight into electricity or thermal energy, whether by photovoltaics, concentrating solar thermal devices, or any other various experimental solar technologies. The primary purpose is for consumption of generated energy on site.



B. **Roof-Mounted Solar Installation:** A private system installed on the roof of a building that converts sunlight into electricity or thermal energy, whether by photovoltaics, concentrating solar thermal devices, or any other various experimental solar technologies. The primary purpose is for consumption of generated energy on site.



C. **Utility-Scale Solar:** A facility designed to capture and utilize the energy of the sun to generate electrical power to meet utility-scale or commercial needs for use off-site. A utility-scale solar energy facility consists of solar collection devices used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected.

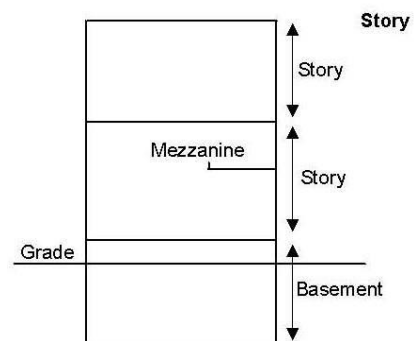


**Special Accommodation Use:** A use that provides equal housing opportunities particularly suited to the needs of persons entitled to a reasonable accommodation under state or federal law, such as but not limited to, the Federal Fair Housing Act, as amended, 42 USC § 3604(f)(1) *et seq*, the Americans with Disabilities Act, as amended, 42 USC §12131 *et seq*, and the Rehabilitation Act, as amended, 29 USC §794(a). The definition of special accommodation use shall be applicable to various types of transitional and permanent homes or living arrangements which occupy dwellings or other structures and may include, but not be limited to, adult foster care large group homes and congregate facilities, and sober living homes.

**Special land use:** A use which is subject to approval by the Planning Commission. A Special Land Use may be granted when specified by this Ordinance. A permitted Special Land Use is not considered to be a Non-conforming Use.

**Storage area:** An area used or intended for the storage of materials, refuse, or vehicles and equipment.

**Story:** That part of a building, except a mezzanine and/or basement, between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above. A story shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the grade level of the adjoining ground.



**Street or Road:** A dedicated right-of-way, affording the principal means of access to abutting property (excludes alleys).

**Street or Road, Private:** A non-public easement or right-of-way that provides motor vehicle access to three or more lots, parcels, or site unit condominiums.

**Structure:** Anything constructed or erected, either temporary or permanent, the use of which requires placement on the ground or attachment to something having location on the ground.

## T

**Telecommunications tower:** A tower, pole, or similar structure that supports a telecommunications antenna in a fixed location, freestanding, guyed, or on a building or other structures.

**Temporary use:** A use or building permitted to exist during periods of construction of the main building or use, or for special events.

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

**Tower:** Any ground or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts.

**Transitional Housing Facility:** For the purposes of this Ordinance, “Transitional Housing Facility” means the offering to others for purposes of occupancy through rental or lease agreements, or by other mutually acceptable agreements leading to occupancy, the occupancy of dwelling units in any form to two or more individuals who do not meet the qualifications of a “family” as defined in the Emmet County Zoning Ordinance.

“Transitional housing facility” does not include: (1) a “domestic unit” under the Zoning Ordinance, Article 26, whether licensed by the state, county or otherwise; (2) any facility owned and operated directly by the Federal Bureau of Prisons; (3) an adult foster care home of six (6) persons or less licensed under the Michigan Adult Foster Care Licensing Facilities Act, MCL 400.701 et. Seq. or (4) a use granted a Special Accommodation under Article 26 containing six (6) persons or less.

## U

**Use, principal:** The primary use to which the premises are devoted and the primary purpose for which the premises exist.

## V

**Veterinary Clinic:** A building or part of a building in which facilities are provided for the practice of veterinary medicine as defined in Act 353 of the Public Acts of 1982, and in conjunction with which there may be facilities provided for the sheltering of animals during the treatment period. Boarding, grooming, medical appointments and surgeries may take place in the clinic.

## W

**Warehouse:** A commercial structure used in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

**Wind energy systems:** The following terms relating to wind energy shall have the meaning defined below:

- A. **Anemometer tower or met** means a freestanding meteorological tower containing instrumentation such as anemometers that is designed to provide present moment wind data.
- B. **Ambient** means the sound pressure level exceeded 90% of the time ( $L_{90}$ ).
- C. **dB(A)** means the sound pressure level in decibels. It refers to the “a” weighted scale defined by American National Standards Institute. A method for weighting the frequency spectrum to mimic the human ear.
- D. **Decibel** means the unit of measure used to express the magnitude of sound pressure and sound intensity.
- E. **High Amenity Zones** means those zoning districts primarily intended for rural living and intended to have relatively quiet amenity. These include the FF-2 Farm and Forest Zoning District.
- F. **Lease unit boundary** means boundary around property leased or otherwise encumbered for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross a road right-of-way.
- G. **Maximum Noise Level** means " $L_{eq, 10min}$ " (Equivalent Continuous Sound Pressure Level over a 10 minute measurement period".
- H. **On-site wind energy system** means a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.
- I. **Qualified acoustics professional** means a person meeting one of the following minimum requirements:
  - 1. Board Certified by the [Institute of Noise Control Engineering](#), or standard membership in the [Institute of Noise Control Engineering](#) combined with documented experience from wind power projects, or
  - 2. A member of the [Institute of Noise control Engineering \(INCE\)](#) combined with documented experience from wind power projects.
- J. **Rotor** means an element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.



- K. **Shadow flicker** means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.
- L. **Sound pressure** means an average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.
- M. **Sound pressure level** means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).
- N. **Utility grid wind energy system** means a land use designed and built to provide electricity to the electric utility grid by use of wind and includes accessory uses such as but not limited to an ANEMOMETER TOWER, electric substation, and related appurtenances.
- O. **Wind energy system** means a land use for generating power by use of wind; use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also ON-SITE WIND ENERGY SYSTEM and UTILITY GRID WIND ENERGY SYSTEM.
- P. **Wind site assessment system (WSAS) means a land use using a met or anemometer tower** to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

**Winery:** A building or property that produces wine, or a business involved in the production of wine, such as a wine company, licensed by the State to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises.

**Wireless communications facilities or facility:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals or other wireless communications services, and include wireless communications equipment, wireless communications support structures, and wireless communications equipment compounds, as defined herein. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; shortwave receiving facilities; amateur (ham) radio facilities; private/stand-alone satellite dishes; essential services structures and facilities; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

For purposes of this Ordinance, the following additional terms are defined:

- A. **Attached wireless communications facilities** shall mean wireless communications equipment attached to an existing wireless communications support structure or in an existing wireless communications equipment compound.

- B. **Substantial change in physical dimensions** means one or more modifications of the height, width, length, or area of a wireless communications facility at a location, the cumulative effect of which is to materially alter or change the appearance of the wireless communications facility.
- C. **Wireless equipment** means the equipment and components, including cellular antennae, transmitters, receivers, equipment shelters or cabinets, regular and backup power supply including emergency generators, and power supply, coaxial and fiber optic cables used in the provision of wireless services, but excluding wireless support structures.
- D. **Wireless communications equipment compound** means a delineated area surrounding or adjacent to the base of a wireless communications support structure within which any wireless communications equipment related to that support structure is located.
- E. **Wireless communications support structures or support structures** shall mean structures designed to support or capable of supporting wireless communication equipment. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, utility poles, wood poles and guyed towers, buildings, or other structures with such design or capability.
- F. **Collocation** shall mean the location by two (2) or more wireless communication providers of wireless communication equipment on a common wireless communication support structure. Wireless communications facilities or facility shall mean all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals or other wireless communications services, and include wireless communications equipment, wireless communications support structures, and wireless communications equipment compounds, as defined herein. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, micro-wave relay facilities, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; amateur (ham) radio facilities; private/stand-alone satellite dishes; essential services structures and facilities; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

## Y

**Yard Sale:** The sale or offering for sale of new, used or secondhand items of personal property at any one (1) residential premises at any one (1) time or at a group of residential premises at any one (1) time. Yard Sale includes all sales in residential areas entitled "garage sale," "yard sale," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property.

**Yards:** The open spaces on the same lot with a structure, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined:

- A. **Front yard**: An open space extending the full width of which is the minimum horizontal distance between the front lot line and the nearest point of the structure.
- B. **Rear yard**: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the structure.
- C. **Side yard**: An open space between a structure and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the structure.

## **Z**

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**Zoning administrator**: The person retained by Emmet County to administer and enforce this Zoning Ordinance.

**Zoning Board of Appeals**: As used in this Ordinance, the term "Board of Appeals" or "ZBA" means the Zoning Board of Appeals.

**Zoning district**: A portion of Emmet County within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

**Zoning permit**: A standard form issued by the Zoning Administrator upon application and declaration by the owner or his duly authorized agent regarding proposed construction and use of land, building and structures thereon granting approval for the construction or use applied for.

**Zoning Variance**: A modification of the literal provision of the Zoning Ordinance which would cause practical difficulty owing to circumstances unique to the individual property on which the variance is granted.

# Article 3

## Zoning Districts and Map

<u>Section</u>	<u>Name</u>	<u>Pg</u>
3.00	Districts	3-1
3.01	Boundaries	3-1
3.02	District Requirements	3-2
3.03	Area and Bulk Requirements for All Districts	3-2
3.04	Accessory Uses Assumed	3-2

### Section 3.00 Districts

For the purpose of this Ordinance, the County of Emmet is divided into the following Districts:

#### **RESIDENTIAL DISTRICTS**

R-1	One and Two Family Residential
R-2	General Residential
RR	Recreational Residential
SR	Scenic Resource

#### **NON-RESIDENTIAL DISTRICTS**

B-1	Local-Tourist Business
B-2	General Business
B-3	Commercial/Industrial
P-T	Parking Transition
I	Industrial

#### **OTHER DISTRICTS**

FF-1	Farm and Forest
FF-2	Farm and Forest
FR	Forest Recreation
PUD	Planned Unit Development

### Section 3.01 Boundaries

The boundaries of these Districts are established as shown on the County Zoning Map, which accompanies this Ordinance, and which map with all notations, references and other information shown thereon shall be as much a part of this Ordinance as if fully described. If there are any questions as to the interpretation of District Boundaries the Board of Appeals shall determine same.

### Section 3.02 District Requirements

All buildings and uses in any district shall be subject to the provisions of General Provisions and General Exceptions.

### **Section 3.03 Area and Bulk Requirements for All Districts**

For each District in this Ordinance, see also the **Article 19 - SCHEDULE OF REGULATIONS**, limiting the height and bulk of buildings, the minimum size of the lot permitted, the maximum density permitted and minimum yard requirements (setbacks).

### **Section 3.04 Accessory Uses Assumed**

For each District established in the Ordinance it shall be assumed that customary accessory buildings and uses which are incidental to any Principal Uses or Special Uses Permitted, are permissible as part of the main use.

# Article 4

## R-1

### Residential District

Section	Name	Pg
4.00	Intent	4-1
4.01	Principal Uses & Special Uses Permitted	4-1
4.02	District Development Standards	4-2

#### Section 4.00 Intent

This residential district is designed to provide for dwelling sites and the residentially related uses in keeping with the Master Plan of residential development in Emmet County. The uses permitted are intended to promote a compatible arrangement of land uses for homes, with the intent to keep residential areas relatively quiet and free from detrimental use influences.

#### Section 4.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

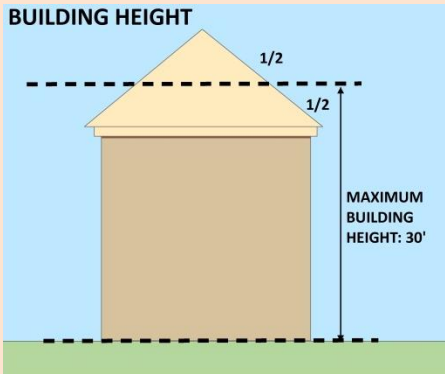
P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations		
	<b>AGRICULTURE &amp; FORESTRY</b>	
	Accessory uses on commercial farms (§ 26.34)	S*
	Farms, domestic (§ 26.12)	P*
	Farms, commercial	P
	Wineries and Hard Cider Operations on a farm (§ 26.35)	S*
	<b>ENTERTAINMENT &amp; RECREATION</b>	
	Country Clubs/Golf Courses/ Driving Ranges (§ 26.17)	S*
	Recreation Areas/ private, nonprofit (§ 26.19)	S*
	<b>COMMERCIAL</b>	
	Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Less than 4,000 square feet	P
	<b>COMMUNICATIONS</b>	
	Individual Television/Radio Reception Tower (§ 26.02)	P*
	Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*
	<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
	Educational Facilities (§ 26.16)	S*
	Government/Public facilities (§ 26.16)	S*
	<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
	Adult day care	S
	Child Care Services (see three following rows)	
	Family Child Care Home (6 or fewer)	P
	Group Child Care Home (7 -12)	P
	Child Care Center or Day Care Center/Nursery School	S
	Hospitals	S
	Assisted Living Home/Nursing Home	S
	<b>MISCELLANEOUS</b>	
	Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	S
	Special Accommodation Use	P*
	State-Licensed Residential Facilities (Adult Foster Care Facility).	P
	Adult foster care family home or small group home	P
	Adult foster care group home	S
	<b>RESIDENTIAL USES</b>	
	Accessory Dwelling Unit (§ 26.37)	P*
	Cluster housing (§ 26.38)	S*
	Customary Accessory Buildings (200 sq. ft. and over) without a Main Use (§ 26.13)	S*
	Duplex (§ 26.33)	P*
	Home Occupation (§ 26.09)	P*
	Home Based Business (§ 26.09)	S*
	One-Family Dwelling	P
	Recreational Vehicles (§ 26.06)	P*
	Triplex, Quadplex (§ 26.33)	P*
	<b>UTILITIES/ENERGY</b>	
	Solar installations, Roof Mounted (§ 26.36)	P*
	Wind Site Assessment Systems (§ 26.03)	S*
	Wind Energy Systems, On-Site, greater than 60' in height	S*
	Wind Energy Systems, On-Site, up to 60' in height	S*
	<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
	Home Office	NP

## One-Family Residential District

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 4.02 District Development Standards**

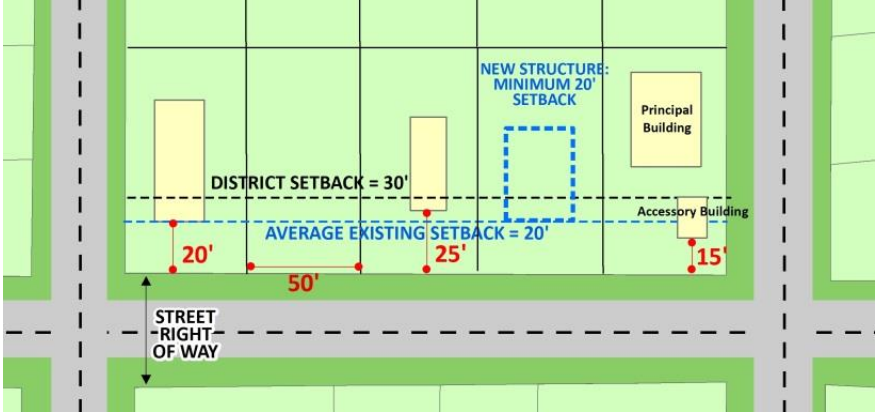
A. Lot & Structure Standards	
<b>1. Minimum Lot Area</b>	<ul style="list-style-type: none"> <li>a. ½ acre if no municipal or community water or public sewage treatment system serves the parcel</li> <li>b. <b>9,600 square feet</b> if municipal or community water or public sewage treatment system serves the parcel.</li> </ul>
<b>2. Minimum Lot Width</b>	<ul style="list-style-type: none"> <li>a. <b>100 feet</b> if no municipal or community water or public sewage treatment system serves the parcel.</li> <li>b. <b>60 feet</b> if municipal or community water or public sewage treatment system serves the parcel.</li> </ul>
<b>3. Maximum Building Height</b>	<p><b>30 feet</b></p> <ul style="list-style-type: none"> <li>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:                             <ul style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ul> </li> <li>b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:                             <ul style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ul> </li> </ul>
<b>4. Maximum Lot Coverage by the Area of all Buildings</b>	<p><b>30%</b></p> <p>This provision does not apply to structures four (4) feet in height or less.</p>
<b>5. Dwelling Unit Minimum Floor Area</b>	<b>560 square feet</b>
<b>6. Minimum Building Width</b>	<p>20 feet for at least one-half its length</p> <p>This provision applies to permanent dwelling units and not accessory dwelling units.</p>



B. Setbacks	
<b>1. Minimum Front</b>	30 feet

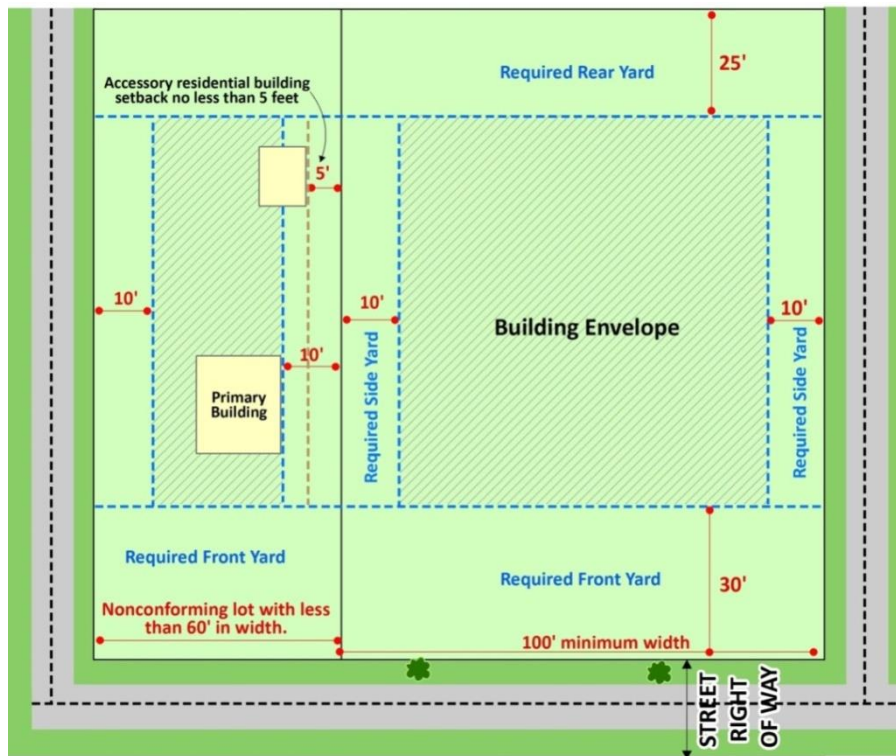


# One-Family Residential District

<p><b>Yard</b></p>	<p>a. On nonconforming lots measuring 100 feet or less in width, where two or more primary residences or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet. (Front yard does not include waterfront).</p>  <p>b. For non-residential lots, parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
<p><b>2. Minimum Rear Yard</b></p>	<p>25 feet</p> <p>a. Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.</p>
<p><b>3. Minimum Side Yard</b></p>	<p>10 feet</p> <p>a. On nonconforming lots measuring sixty (60) feet in width or less, one side yard setback may be reduced to five (5) feet for one detached accessory residential building.</p> <p>b. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</p> <p>c. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</p>
<p><b>4. Other Regulations</b></p> <p>a. For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.</p> <p>b. Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.</p> <p>c. For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access</p> <p>d. Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.</p>	

# One-Family Residential District

R-1 Setback Diagram



# Article 5

## R-2

### General Residential District

Section	Name	Pg
5.00	Intent	5-1
5.01	Principal Uses & Special Uses Permitted	5-1
5.02	District Development Standards	5-2

#### Section 5.00 Intent

The General Residential District is designed to provide for structures that are needed to house more than one-family, in order to meet the needs of the apartment dwelling. The R-2 District is further intended to serve a transition use function, and is particularly applicable to areas that already have a degree of residential and non-residential use mix, or in areas where such a mix would be desirable.

#### Section 5.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	S*
Farms, domestic (§ 26.12)	P*
Farms, commercial	P
Wineries and Hard Cider Operations on a farm (§ 26.35)	S*
<b>ENTERTAINMENT &amp; RECREATION</b>	
Indoor recreation (§ 26.18)	S*
Outdoor Performance Facilities/Theaters (§ 26.18)	S*
Private Clubs; Fraternal Lodges (§ 26.18)	S*
<b>COMMERCIAL</b>	
Art Studios /Museums & Galleries	S
Bed & Breakfasts	S
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Less than 4,000 square feet	P
Electronic & Precision Equipment Repair & Maintenance (§ 26.18)	S*
Financial Institutions (§ 26.18)	S*
Funeral Homes & Mortuaries (§ 26.18)	S*
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)	S*
Personal Services (§ 26.18)	S*

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Professional Cleaning Services (§ 26.18)	S*
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)	S*
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
Television/Radio Broadcasting Stations (no tower)	S
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	S
Government/Public facilities (§ 26.16)	S
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Adult day care	P
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	P
Hospitals	S
Assisted Living Home/Nursing Home	P

**General Residential District**

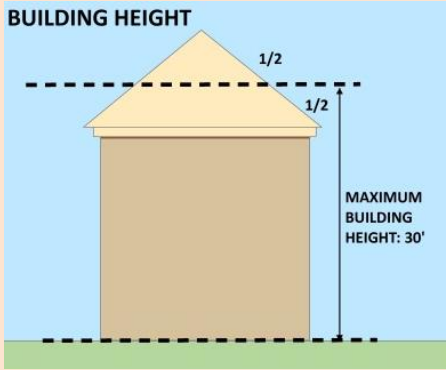
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	S
Special Accommodation Use (§ 26.40)	P*
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
Transitional Housing Facilities (§ 26.41)	S*
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Accessory Dwelling Unit (§ 26.37)	P*
Cluster housing (§ 26.38)	P*
Customary Accessory Buildings (200 sq. ft. and over) without a Main Use (§ 26.13)	S*
Duplex (§ 26.33)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
Mobile Home Community (with accessory uses such as laundry facilities, office building, and community building) (§ 26.05)	S*
One-Family Dwelling	P
Multiple-Family Dwelling Units	P

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Rooming & Boarding Houses (group quarters)	S
Recreational Vehicles (§ 26.06)	P*
Triplex, Quadplex (§ 26.33)	P
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

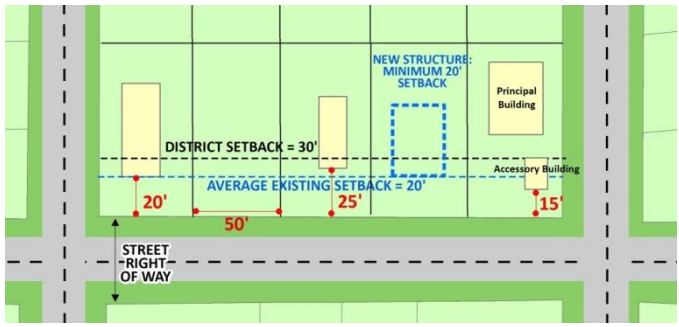
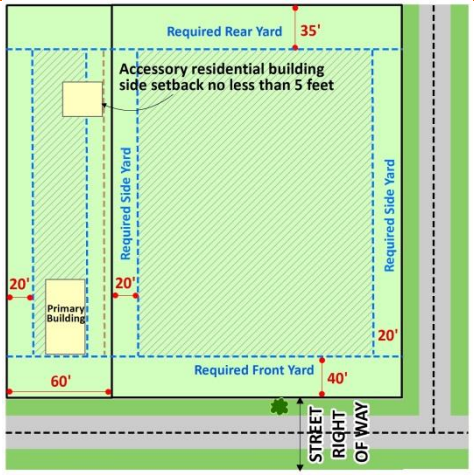
**Section 5.02 District Development Standards**

<b>A. Lot &amp; Structure Standards</b>	
<b>1. Minimum Lot Area</b>	
a. Single-Family Residences	a. ½ acre if no municipal or community water or public sewage treatment system serves the parcel b. 9,600 square feet if municipal or community water or public sewage treatment system serves the parcel.
b. Multiple family and/or apartment buildings, including row houses, town houses and the like.	See density table below.
<b>2. Minimum Lot Width</b>	
a. Single-Family Residences	a. 100 feet if no municipal or community water or public sewage treatment system serves the parcel. b. 60 feet if municipal or community water or public sewage treatment system serves the parcel.
b. Multiple family and/or apartment buildings, including row houses, town houses and the like.	None
<b>3. Maximum Building Height</b>	
	30 feet
	a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:  (1) Ornamental – Superstructures, e.g. church steeples, public

General Residential District

	<p>monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</p> <p>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</p> <p>b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
<p><b>4. Maximum Lot Coverage by the Area of all Buildings</b></p>	<p><b>35%</b></p> <p>This provision does not apply to structures four (4) feet in height or less.</p>
<p><b>5. Minimum Floor Area</b></p>	<p><b>None</b></p>
<p><b>6. Minimum Building Width</b></p>	<p><b>20 feet for at least one-half its length</b></p> <p><b>This provision applies to permanent dwelling units and not accessory dwelling units.</b></p>

<p><b>B. Multiple Family Dwelling Density Table</b></p>			
	<p><b>WITHOUT PUBLIC SEWER</b></p>		<p><b>WITH PUBLIC SEWER</b></p>
	<p><b>Net Density in Units per Acre</b></p>		<p><b>Net Density in Units Per Acre</b></p>
	<p>7.5</p>		<p>12</p>
<p><b>DENSITY NOTES:</b> Unless the construction plans include tying into an existing municipal or community sewer and/or water system, the on-site services to be constructed shall be designed so that central collection/distribution points are installed in anticipation of future tie-ins with a municipal type system. The local sewer/water authority having jurisdiction shall be consulted on matters of service tie-ins and pre-utility plans to minimize site disruption on future tie-in or hook-up projects.</p>			

<b>C. Setbacks</b>	
<b>1. Minimum Front Yard</b>	<p><b>30 feet</b></p> <p>a. On nonconforming lots measuring 100 feet or less in width, where two or more primary residences or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet.</p>  <p>b. For non-residential lots, parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
<b>2. Minimum Rear Yard</b>	<p><b>35 feet</b></p> <p>Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.</p>
<b>3. Minimum Side Yard</b>	<p><b>20 feet</b></p> <p>a. On nonconforming lots measuring sixty (60) feet in width or less, one side yard setback may be reduced to five (5) feet for one detached accessory residential building.</p> <p>b. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</p> <p>c. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</p> 
<b>4. Other Regulations</b>	
<p>a. <b>MULTIPLE DWELLINGS:</b> For the purpose of applying yard regulations, multiple dwellings shall be considered as one (1) building occupying one (1) lot. When more than one multiple dwelling occupies one lot, the two or more structures must be separated by at least 20 feet when end to end and fifty (50) feet when face to face or back to back for structures up to two stories. These isolation distances shall be increased by eight (8) feet for each story above the first two stories.</p> <p>b. For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.</p> <p>c. Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.</p> <p>d. For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access</p> <p>e. Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.</p>	



# Article 6

## RR

### Recreational Residential District

Section	Name	Pg
6.00	Intent	6-1
6.01	Principal Uses & Special Uses Permitted	6-2
6.02	District Development Standards	6-2

#### Section 6.00 Intent

The Recreational Residential District is designed to accommodate cottage and seasonal home developments. It is intended that the seasonal home areas be reasonably homogeneous by discouraging the mixing of recreation home areas with commercial resorts, business services and community services.

#### Section 6.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	S*
Farms, domestic (§ 26.12)	P*
Farms, commercial	P
Wineries and Hard Cider Operations on a farm (§ 26.35)	S*
<b>ENTERTAINMENT &amp; RECREATION</b>	
Boat Launching Pads and Minor Accessory Facilities (other than marinas and enclosed storage buildings)	S
Campgrounds/Camping Area/Camping sites (§ 26.21)	S*
Country Clubs/Golf Courses/ Driving Ranges (§ 26.17)	S*
Recreation Areas/ private, nonprofit (§ 26.19)	S*
<b>COMMERCIAL</b>	
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Less than 4,000 square feet	P
Recreation Camps, Recreation Lodges, & Resorts (§ 26.04)	S*
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	S*
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P

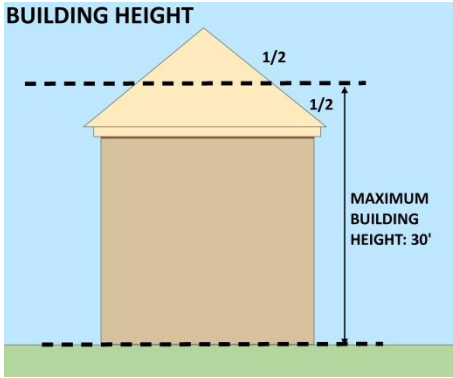
P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	
Assisted Living Home/Nursing Home	S
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Accessory Dwelling Unit (§ 26.37)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
One-Family Dwelling	P
Recreational Vehicles (§ 26.06)	P*
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP

**Recreational Residential District**

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 6.02 District Development Standards**

<b>A. Lot &amp; Structure Standards</b>	
<b>1. Minimum Lot Area</b>	<b>1/2 acre</b>
<b>2. Minimum Lot Width</b>	<b>100 feet</b>
<b>3. Maximum Building Height</b>	<b>30 feet</b>
	<p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ol style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ol> <p>b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
	<b>4. Maximum Lot Coverage by the Area of all Buildings</b>
<b>5. Minimum Floor Area</b>	<b>560 feet</b>
<b>6. Minimum Building Width</b>	20 feet for at least one half its length. This provision applies to permanent dwelling units and not



		accessory dwelling units.
<b>B. Setbacks</b>		
<b>1. Minimum Front Yard<sup>e</sup></b>	<b>40 feet</b> a. On nonconforming lots measuring 100 feet or less in width, where two or more primary residences or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet.	
	b. For non-residential lots, parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.	
<b>2. Minimum Rear Yard<sup>e</sup></b>	<b>35 feet</b> Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.	
<b>3. Minimum Side Yard</b>	<b>10 feet</b> a. On nonconforming lots measuring sixty (60) feet in width or less, one side yard setback may be reduced to five (5) feet for one detached accessory residential building.	
	b. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.  c. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.	
<b>4. Other Regulations</b>		
a. For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable. b. Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use. c. For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access. d. Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space. e. On a lot located within the Critical Dune Area regulated by the State of Michigan, in a recorded plat, fronting a private road, the minimum front yard setback standard shall be fifteen (15) feet. The rear yard setback of such lot may be reduced to 15 feet if the lot abuts property within the same plat.		

# Article 7

## SR

### Scenic Resource District

Section	Name	Pg
7.00	Intent	7-1
7.01	District Boundaries	7-1
7.02	Principal Uses & Special Uses Permitted	7-2
7.03	Required Conditions	7-3
7.04	District Development Standards	7-4

#### Section 7.00 Intent

Because there exists in Emmet County numerous and varied resources that should be protected for their scenic values, environmental stability and character, the SR Scenic Resource District are established to protect scenic resources along rivers, highways and streets, lake shores and impounding waters.

#### Section 7.01 District Boundaries

Unless otherwise illustrated or indicated on the Zoning Map, the SR-Scenic Resource District shall be considered to extend at right angles from the ordinary high water level of rivers, lakes, impoundments, etc., to a depth of four hundred (400) feet; and to a depth of four-hundred (400) feet from the nearest right-of-way line of any scenic highway, street or road, or to the depth of the abutting property, whichever is less.

#### Section 7.02 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	S*
Farms, domestic (§ 26.12)	P*
Farms, commercial	P
Wineries and Hard Cider Operations on a farm (§ 26.35)	S*
<b>ENTERTAINMENT &amp; RECREATION</b>	
Boat Launching Pads and Minor Accessory Facilities (other than marinas and enclosed storage buildings)	S
Campgrounds/Camping Area/Camping sites (§ 26.21)	S*
Country Clubs/Golf Courses/ Driving Ranges (§ 26.17)	S*
Recreation Areas/ private, nonprofit (§ 26.19)	S*
<b>COMMERCIAL</b>	

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Less than 4,000 square feet	P
Recreation Camps, Recreation Lodges, & Resorts (§ 26.04)	S*
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	S*
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	

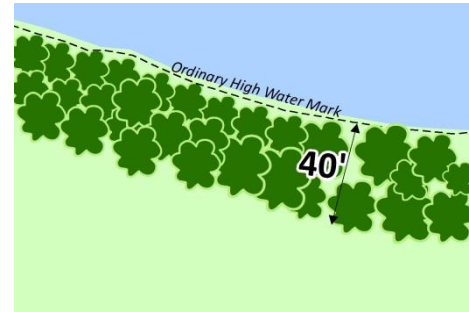
## Scenic Resource District

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Assisted Living Home/Nursing Home	S
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Accessory Dwelling Unit (§ 26.37)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
One-Family Dwelling	P
Recreational Vehicles (§ 26.06)	P*
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

### Section 7.03 Required Conditions

Every use in the SR Districts shall establish and maintain a forty (40) foot yard or strip on the water side (or roadside if a scenic highway). The yard or strip to be maintained in its natural tree and shrub condition. Trees and shrubs may be trimmed and/or pruned through the native strip for a view of the fronting waters and for access to a boat dock and/or a driveway entrance. For the purposes of the SR-2 District, the front setback (roadside) and required greenbelt shall be measured from the road right-of-way line, or measured from a line that is thirty-three (33) feet from the road centerline, whichever is greater.



Nothing in these requirements shall be interpreted to prohibit selective tree cutting in the native strip space to remove dangerous trees (wind throw hazard) or other trees and shrubs that may prevent the native strip area from being kept in a healthful growth condition. Similar cutting shall be permissible where necessary for traffic safety reasons (air, rail or highway).

Any excavating, filling, grading or other on-site construction activity shall insure that no silting will impact adjacent waters and that all banks, slopes and hillsides are stabilized to prevent soil erosion.

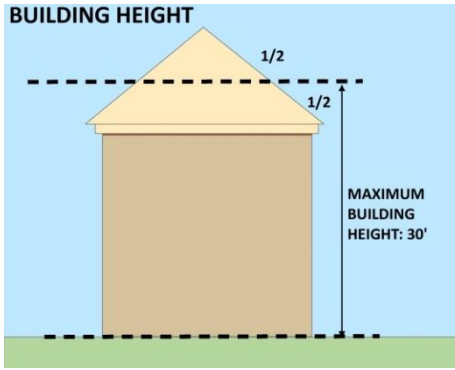
Nothing in this Section shall be interpreted to require the planting of vegetation on parcels, or parts thereof, where native vegetation does not exist on agricultural lands.

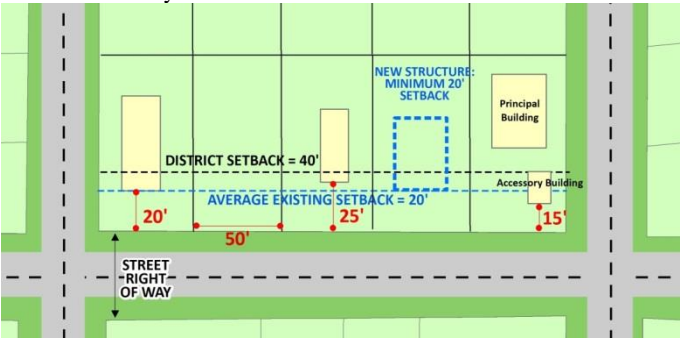
Example of Intent of SR Zone Section 7.03 Required Conditions as related to N. Lake Shore Drive (M-119)						
	SR Zone "Greenbelt"	MDOT Road Right-of-way	M-119 MDOT ROW	MDOT Road Right-of-way	SR Zone "Greenbelt"	
	40 feet	33 feet		33 feet	40 feet	
	SR Zoning District - A 40 foot yard or strip to be maintained in its natural tree and shrub condition.	MDOT Right-of-Way = 66 Feet Measured from the road right-of-way line or measured from a line that is 33 feet from the center line of the road, whichever is greater. (There are some ROW exceptions.)			SR Zoning District - A 40 foot yard or strip to be maintained in its natural tree and shrub condition.	

## Section 7.04 District Development Standards

A. Lot & Structure Standards	
1. Minimum Lot Area	30,000 square feet
2. Minimum Lot Width	150 feet
3. Maximum Building Height	30 feet
	<p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ul style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ul>

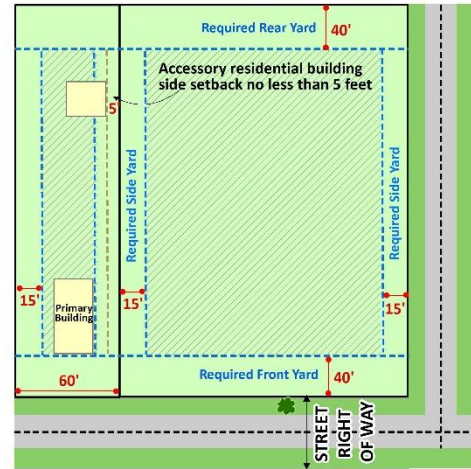
Scenic Resource District

	<p>b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined by that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
<p><b>4. Maximum Lot Coverage by the Area of all Buildings</b></p>	<p><b>30%</b> This provision does not apply to structures four (4) feet in height or less.</p>
<p><b>5. Minimum Floor Area</b></p>	<p><b>720 feet</b></p>
<p><b>6. Minimum Building Width</b></p>	<p>20 feet for at least one-half its length This provision applies to permanent dwelling units and not accessory dwelling units.</p>

<p><b>B. Setbacks</b></p>	
<p><b>1. Minimum Front Yard</b></p>	<p><b>40 feet</b></p> <p>a. On nonconforming lots measuring 100 feet or less in width, where two or more primary residences or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet.</p>  <p>b. For non-residential lots, parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
<p><b>2. Minimum Rear Yard</b></p>	<p><b>40 feet</b> Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. (RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.)</p>
<p><b>3. Minimum</b></p>	<p><b>15 feet</b></p>

Scenic Resource District

<b>Side Yard</b>	a. On nonconforming lots measuring sixty (60) feet in width or less, one side yard setback may be reduced to five (5) feet for one accessory residential building.
	b. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.
	c. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.



**4. Other Regulations**

- For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.
- Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.
- For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access
- Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.



# Article 8

## FF-1 and FF-2

### Farm and Forest Districts

Section	Name	Pg
8.00	Intent	8-1
8.01	Principal Uses & Special Uses Permitted	8-1
8.02	District Development Standards	8-3

#### Section 8.00 Intent

The FF-Farm and Forest Districts are designed to promote the use of wooded and rural areas of the County in a manner that will keep the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The intent of the District is to hold the rural County areas for agriculture and forestry purposes and to allow some multiple uses of marginal farm-forest lands.

#### Section 8.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

	FF-1	FF-2
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations		
<b>AGRICULTURE &amp; FORESTRY</b>		
Accessory uses on commercial farms (§ 26.34)	S*	S*
Farms, domestic (§ 26.12)	P*	P*
Farms, commercial	P	P
Forest products processing (limited), Forest production operations, log storage yards, and related	P	P
Nursery, landscaping and floriculture	P	P
Meat processing	S	S
Sawmills, Planing Mills, Veneer Mills and related operations (§ 26.22)	S*	S*
Wineries and Hard Cider Operations on a farm (§ 26.35)	S*	S*
<b>ENTERTAINMENT &amp; RECREATION</b>		
Archery Ranges	S	S
Campgrounds/Camping Area/Camping sites (§ 26.21)	S*	S*
Country Clubs/Golf Courses/ Driving Ranges (§ 26.17)	S*	S*
Outdoor Recreation Facilities	S	S
Recreation Areas/ private, nonprofit (§ 26.19)	S*	S*
Firearm shooting range	P	P
<b>COMMERCIAL</b>		

	FF-1	FF-2
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations		
Animal Shelter/Kennels (§ 26.07)	S*	S*
Art Studios /Museums & Galleries	S	S
Bed & Breakfasts	S	S
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	S	S
Caterers/Food Service Contractors	S	S
Cemeteries (§ 26.25)	S*	S*
Contractors (ex: electrical, plumbing, heating, building) Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)	S*	S*
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship		
Less than 4,000 square feet	P	P
Pet Care (except Veterinary and Animal Shelters)	S	S
Recreation Camps, Recreation Lodges, & Resorts (§ 26.04)	S	S
Restaurants/Bar with or without indoor seating	S	S
Veterinary Clinics/Animal Clinics/Animal Hospitals (§ 26.07)	S*	S*
<b>COMMUNICATIONS</b>		

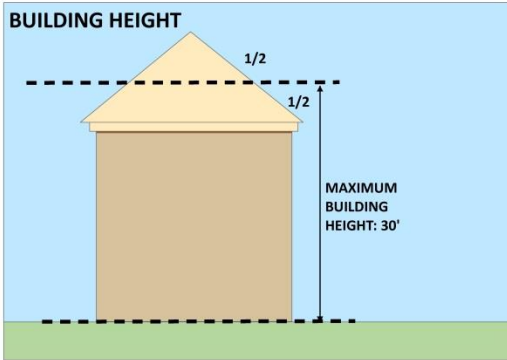
**Farm and Forest Districts**

<b>P = Permitted by right</b> <b>S = Permitted with a Special Use Permit</b> <b>NP = No Permit Required</b> <b>*Uses with Supplemental Regulations</b>	<b>FF-1</b>	<b>FF-2</b>
Individual Television/Radio Reception Tower (§ 26.02)	P*	P*
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*	S*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>		
Educational Facilities (§ 26.16)	P	P
Government/Public facilities (§ 26.16)	P	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>		
Adult day care	P	P
Child Care Services (see three following rows)		
Family Child Care Home (6 or fewer)	P	P
Group Child Care Home (7 -12)	P	P
Child Care Center or Day Care Center/Nursery School	S	S
Hospitals	S	S
Assisted Living Home/Nursing Home	P	P
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	S	S
Special Accommodation Use	P*	P*
State-Licensed Residential Facilities (Adult Foster Care Facility).	P	P
Adult foster care family home or small group home	P	P
Adult foster care group home	S	S
Transitional Housing Facilities	S*	S*
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>		
Farm products processing (excluding concentrated animal feeding operations)	S	S
Junkyards/salvage yards/scrap yards/motor vehicle impoundment and wrecking yards (§ 26.10)		S*
Mines, quarries, and gravel pits (§ 26.08)	S*	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*	S*
Septage Waste treatment facility (§ 26.32)	S*	S*
Temporary and or portable Mining Operations, Hot and Cold Mix Asphalt plants, Ready Mix concrete plants and similar uses (§ 26.23)	S*	S*
<b>MISCELLANEOUS</b>		
Accessory Buildings & Uses Incidental to Main Permitted Uses	P	P

<b>P = Permitted by right</b> <b>S = Permitted with a Special Use Permit</b> <b>NP = No Permit Required</b> <b>*Uses with Supplemental Regulations</b>	<b>FF-1</b>	<b>FF-2</b>
<b>RESIDENTIAL USES</b>		
Accessory Dwelling Unit (§ 26.37)	P*	P*
Cluster housing (§ 26.38)	P*	P*
Customary Accessory Buildings (200 sq. ft. and over) without a Main Use (§ 26.13)	P*	P*
Duplex (§ 26.33)	P*	P*
Home Occupation (§ 26.09)	P*	P*
Home Based Business (§ 26.09)	S*	S*
Living Quarters for Caretaker/Security	P	P
One-Family Dwelling	P	P
Recreational Vehicles (§ 26.06)	P*	P*
<b>TRANSPORTATION/WAREHOUSING/WHOLESALE/STORAGE/SHIPPING</b>		
Airports (§ 26.26)	S*	S*
Heliports/Helistops (§ 26.14)	S*	S*
Storage Buildings (including mini-storage) & Commercial warehousing (§ 26.30)	S*	S*
<b>UTILITIES/ENERGY</b>		
Solar installations, Roof Mounted (§ 26.36)	P*	P*
Solar installations, Utility Scale (§ 26.36)	S*	S*
Water & Wastewater Treatment Plants & Reservoirs	P	P
Wind Site Assessment Systems (§ 26.03)	S*	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*	S*
Wind Energy Systems, On-Site, up to 60' in height	S*	S*
Wind Energy Systems: Utility Grid	S*	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>		
Home Office	NP	NP
Essential Services & Public Utilities	NP	NP
Voting Place	NP	NP
Commercial farms	NP	NP
Alterations	NP	NP
Internal Relocations or Replacement	NP	NP
Open Space	NP	NP
Personal Recreation	NP	NP
Plowing and planting	NP	NP
Timber Harvesting	NP	NP
Residential access	NP	NP
Playhouses less than 200 sq. ft. in floor area	NP	NP



**Section 8.02 District Development Standards**

A. Lot & Structure Standards		
	FF-1	FF-2
<b>1. Minimum Lot Area</b>	<b>1 acre</b>	<b>2 acres</b>
<b>2. Minimum Lot Width</b>	<b>150 feet</b>	<b>200 feet</b>
<b>3. Maximum Building Height</b>  	<b>30 feet</b> a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows: <ol style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ol>	
	b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows: <ol style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>	
<b>4. Maximum Lot Coverage by the Area of All Buildings</b>	<b>35%</b> This provision does not apply to structures four (4) feet in height or less.	
<b>5. Minimum Floor Area</b>	<b>560 feet</b>	

B. Setbacks	
<b>1. Minimum Front Yard</b>	<b>40 feet</b>
<p>a. On nonconforming lots measuring 100 feet or less in width, where two or more primary residences or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet.</p>	
	<p>b. For non-residential lots, parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
<b>2. Minimum Rear Yard</b>	<b>35 feet</b> Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.
<b>3. Minimum Side Yard</b>	<b>20 feet</b>
<p>a. On nonconforming lots measuring sixty (60) feet in width or less, one side yard setback may be reduced to five (5) feet for one accessory residential building.</p>	
<p>a. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</p>	
<p>b. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</p>	
<b>4. Other Regulations</b>	
<p>a. For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.</p> <p>b. Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.</p> <p>c. For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access</p> <p>d. Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.</p>	

# Article 9

## FR

### Forest Recreation District

Section	Name	Pg
9.00	Intent	9-1
9.01	Purposes	9-1
9.02	Principal Uses & Special Uses Permitted	9-3
9.03	District Development Standards	9-4

#### Section 9.00 Intent

The FR District is intended to apply to large tracts of land, as those in state forests and such other large tracts as their owners consider beneficial to protect natural resources by the application of the FR District.

#### Section 9.01 Purposes

- A. To keep significant blocks of public land that are major features of public interest, promoting the health, safety, peace and general welfare of citizens in the State of Michigan.
- B. To preserve and reserve valuable resource lands which are critical to the forest industry, a sustainable and renewable sector of the economic base (local and state).
- C. To continue and perpetuate the use of forest resource lands for broad scale outdoor recreation use, specifically directed at hunting (large & small game), snowmobiling, skiing, hiking, mushrooming, bird watching and the like.
- D. To provide habitat for wildlife (plant and animal) with the least amount of disruption from development activities such as building and small lot fragmentation.
- E. To keep and perpetuate resource valuable lands in blocks of ownership and sizes to facilitate effective resource management (forestry, wildlife, recreation, etc.).
- F. To implement and support the implementation of major components of the vision statement published by the Michigan Land Use Leadership Council, that includes:
  - 1. Small towns that serve surrounding Agricultural, Forestry, Mining and tourist economies.
  - 2. A healthy, vibrant agricultural and forest products industry in the State.
  - 3. Public and private lands are managed to sustain long term use while providing for open space and wildlife habitat.

Forest Recreation District

- 4. Promote an understanding that a healthy environment and healthy economy go hand in hand.
  - 5. Preserving ecologically significant natural habitats.
  - 6. A solution to Land Use Issues that recognize the unique character, history, economics and culture of the State.
- G. To recognize blocks of publicly owned land that now have historic significance and have been an integral feature of Emmet County’s natural environment since the 1930s.
- H. To protect the value of private properties adjacent to or near large blocks of public land and which private properties have experienced valuation enhancement due to their proximity to valuable outdoor open space resources.
- I. To carry out the visions of the Emmet County Master Plan that includes protecting the County’s rural character, promoting rural open space, discouraging the fragmentation of large resource parcels (forest and farm) and promoting land use policies that discourage sprawl.
- J. To sustain the local economy by perpetuating multi-use forest management to encourage broad scale outdoor recreation uses, such as rifle/bow hunting, snowmobiling, skiing and related activities traditional in the northern Michigan environment, and which may suffer diminishment or loss if the public forest base were parceled off and/or fragmented.
- K. To recognize the importance of large forest tracts in the natural chemistry of air purification, water quality protection, soil replenishment and bio-diversity.

**Section 9.02 Principal Uses & Special Uses Permitted**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

<p><b>P</b> = Permitted by right  <b>S</b> = Permitted with a Special Use Permit                  NP = No Permit Required                  *Uses with Supplemental Regulations</p>	
<b>AGRICULTURE &amp; FORESTRY</b>	
Farms, domestic (§ 26.12)	P*
Farms, commercial	P
Forest products processing (limited), Forest production operations, log storage yards, and related	P
<b>ENTERTAINMENT &amp; RECREATION</b>	
Recreation Areas/ private, nonprofit (§ 26.19)	S*
<b>COMMERCIAL</b>	
Cemeteries (§ 26.25)	S*

<p><b>P</b> = Permitted by right  <b>S</b> = Permitted with a Special Use Permit                  NP = No Permit Required                  *Uses with Supplemental Regulations</p>	
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	P
Government/Public facilities (§ 26.16)	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P

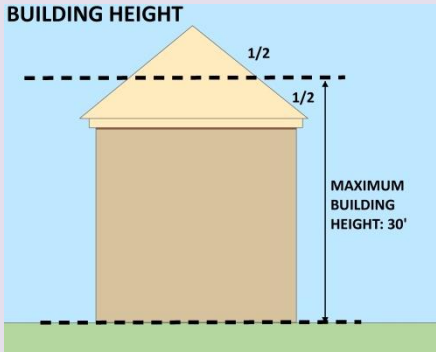
**Forest Recreation District**

<b>P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations</b>	
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	S
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>	
Mines, quarries, and gravel pits (§ 26.08)	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*
Temporary and or portable Mining Operations, Hot and Cold Mix Asphalt plants, Ready Mix concrete plants and similar uses (§ 26.23)	S*
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Customary Accessory Buildings (200 sq. ft. and over) without a Main Use (§ 26.13)	P*
Duplex (§ 26.33)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
One-Family Dwelling	P
Recreational Vehicles (§ 26.06)	P*
<b>TRANSPORTATION/WAREHOUSING/WHOLESALE/STORAGE/SHIPPING</b>	

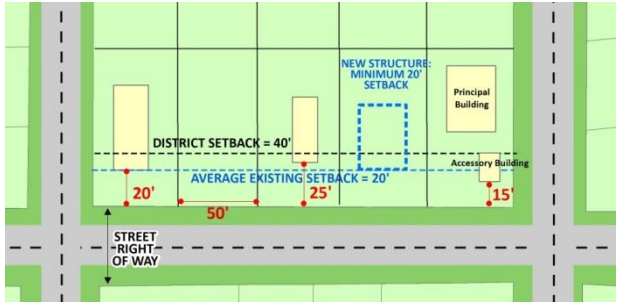
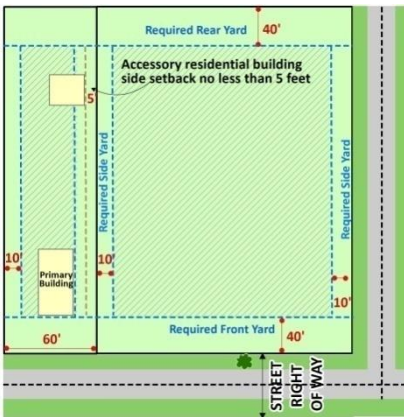
<b>P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations</b>	
Airports (§ 26.26)	S*
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*
Solar installations, Utility Scale (§ 26.36)	S*
Water & Wastewater Treatment Plants & Reservoirs	P
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
Wind Energy Systems: Utility Grid	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 9.03 District Development Standards**

A. Lot & Structure Standards	
<b>1. Minimum Lot Area</b>	<b>40 acres</b>
<b>2. Minimum Lot Width</b>	<b>300 feet</b>
<b>3. Maximum Building Height</b>	<p><b>30 feet</b></p> <p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ul style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ul> <p>b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ul style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces, shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ul>
<b>4. Maximum Lot Coverage by the Area of all Buildings</b>	<p><b>35%</b></p> <p>This provision does not apply to structures four (4) feet in height or less.</p>
<b>5. Minimum Floor Area</b>	<p><b>560 feet</b></p> <p>This provision applies to permanent dwelling units and not cottages, cabins, motels or similar uses.</p>





B. Setbacks	
<b>1. Minimum Front Yard</b>	<p><b>40 feet</b></p> <p>a. On nonconforming lots measuring 100 feet or less in width, where two or more primary residences or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet.</p>  <p>b. For non-residential lots, parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
<b>2. Minimum Rear Yard</b>	<p><b>40 feet</b></p> <p>Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.</p>
<b>3. Minimum Side Yard</b>	<p><b>10 feet</b></p> <p>a. On nonconforming lots measuring sixty (60) feet in width or less, one side yard setback may be reduced to five (5) feet for one accessory residential building.</p> <p>b. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</p> <p>c. Nonresidential Uses -On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</p> 
<b>4. Other Regulations</b>	<p>a. For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.</p> <p>b. Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.</p> <p>c. For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access.</p> <p>d. Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.</p>

# Article 10 B-1

## Local Tourist Business District

Section	Name	Pg
10.00	Intent	10-1
10.01	Principal Uses & Special Uses Permitted	10-1
10.02	District Development Standards	10-3

### Section 10.00 Intent

The B-1 Local-Tourist Business District is designed to give the County a Business District that is somewhat more selective than a General Business District, to provide for the establishment of neighborhood shopping areas, personal services and professional office areas that are compatible with and of service to township residential uses. Tourist services are also included as being in character with the District.

### Section 10.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	P
Farms, commercial	P
Nursery, landscaping and floriculture	S
<b>ENTERTAINMENT &amp; RECREATION</b>	
Archery Ranges	P
Boat Docks, tourist/commercial/Marinas (including boat fuel sales, boat supplies & accessories)	S
Indoor recreation (§ 26.18)	S
Outdoor Performance Facilities/Theaters (§ 26.18)	S
Outdoor Recreation Facilities	S
Private Clubs; Fraternal Lodges (§ 26.18)	P
Firearm shooting range	S
<b>COMMERCIAL</b>	
Art Studios /Museums & Galleries	P
Bed & Breakfasts	P
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	P
Cabin Courts	P
Caterers/Food Service Contractors	P
Contractors (ex: electrical, plumbing, heating, building) Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)	S*

P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Less than 4,000 square feet	P
Dry Cleaning & Laundry Services (cleaning equipment is used to service only the premises at which it is located)	P
Electronic & Precision Equipment Repair & Maintenance (§ 26.18)	P
Financial Institutions (§ 26.18)	P
Funeral Homes & Mortuaries (§ 26.18)	P
Gas Station/EV Station (§ 26.27)	S*
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)	P
Outdoor vendors	P
Personal Services (§ 26.18)	P
Pet Care (except Veterinary and Animal Shelters)	S
Print Shop	S
Professional Cleaning Services (§ 26.18)	P
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)	P
Rental Centers	P
Restaurants/Bar with or without indoor seating	P
Retail Stores	P
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
Television/Radio Broadcasting Stations (no tower)	P



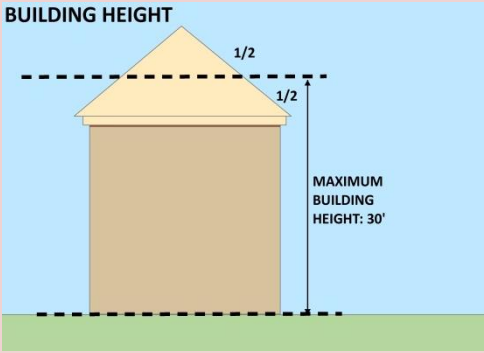
**Local Tourist Business District**

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	P
Government/Public facilities (§ 26.16)	P*
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Adult day care	P
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	P
Hospitals	
Assisted Living Home/Nursing Home	P
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	P
Special Accommodation Use	P*
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
Transitional Housing Facilities	S*
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>	
Food/beverage processing (§ 26.31)	P*
Mines, quarries, and gravel pits (§ 26.08)	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*
<b>MISCELLANEOUS</b>	

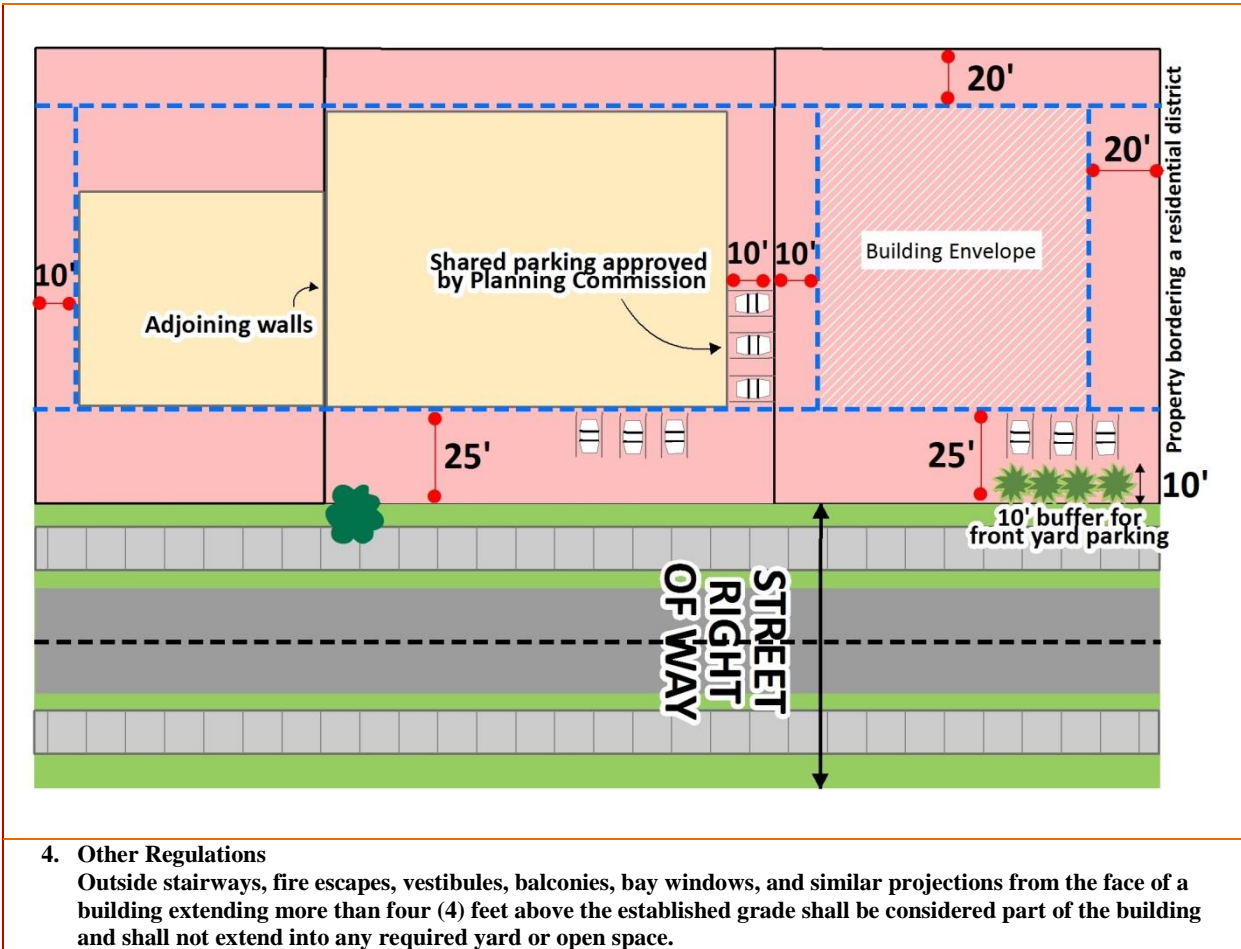
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Duplex (§ 26.33)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
Living Quarters for Caretaker/Security	P
One-Family Dwelling	P
Recreational Vehicles (§ 26.06)	P*
<b>TRANSPORTATION/WAREHOUSING/WHOLESALE/STORAGE/SHIPPING</b>	
Scenic & Sightseeing Transportation/Ground Passenger Transportation	S
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 10.02 District Development Standards**

<b>A. Lot &amp; Structure Standards</b>	
<b>1. Minimum Lot Area</b>	<b>None</b>
<b>2. Minimum Lot Width</b>	<b>100 feet</b>
<b>3. Maximum Building Height</b>	<b>30 feet</b>
	<p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <p>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</p> <p>(2) Mechanical and Structural functions – Building elements,</p>

	<p>e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</p> <p>b. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces, shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
<p><b>4. Maximum Lot Coverage by the Area of all Buildings</b></p>	<p><b>None</b></p>
<p><b>5. Minimum Floor Area</b></p>	<p><b>None</b></p>

<p><b>B. Setbacks</b></p>	
<p><b>1. Minimum Front Yard</b></p>	<p><b>25 feet</b></p>
	<p>Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
<p><b>2. Minimum Rear Yard</b></p>	<p><b>20 feet</b></p>
	<p>Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.</p>
<p><b>3. Minimum Side Yard</b></p>	<p><b>10 feet</b></p>
	<p>a. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</p>
	<p>b. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</p>
	<p>c. For non-residential uses, driveways, sidewalks, parking areas, loading zones shall not occupy required side yards and/or required rear yards unless the Planning Commission approves a plan for shared parking, shared loading, or shared access.</p>



# Article 11

## B-2

### General Business District

Section	Name	Pg
11.00	Intent	11-1
11.01	Principal Uses & Special Uses Permitted	11-1
11.02	District Development Standards	11-3

#### Section 11.00 Intent

The B-2 General Business District is designed to provide sites for more diversified business types and are located so as to serve passer-by traffic.

#### Section 11.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	B-2
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	P
Farms, commercial	P
Nursery, landscaping and floriculture	S
Meat processing	S
<b>ENTERTAINMENT &amp; RECREATION</b>	
Archery Ranges	P
Boat Docks, tourist/commercial/Marinas (including boat fuel sales, boat supplies & accessories)	S
Indoor recreation (§ 26.18)	P
Outdoor Performance Facilities/Theaters (§ 26.18)	S
Outdoor Recreation Facilities	S
Private Clubs; Fraternal Lodges (§ 26.18)	P
Firearm shooting range	S
Theaters/Performing Arts Facilities	P
<b>COMMERCIAL</b>	
Animal Shelter/Kennels (§ 26.07)	S*
Art Studios /Museums & Galleries	P
Auto Body/ Vehicle Repair/Boat Repair Oil Change (§ 26.28)	S*
Automotive Equipment Rental/Leasing	S
Bed & Breakfasts	P
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	P
Cabin Courts	P
Carwashes	P
Caterers/Food Service Contractors	P

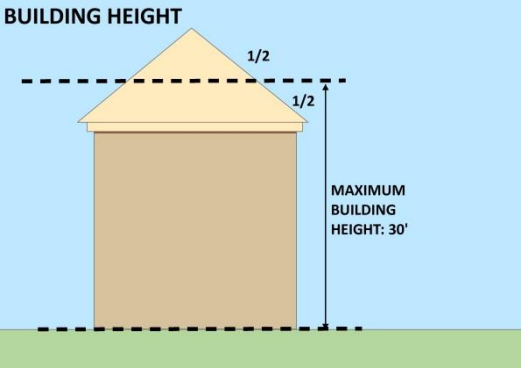
P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	B-2
Commercial/Industrial Equipment Rental & Leasing	S
Contractors (ex: electrical, plumbing, heating, building) Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)	S*
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship	
Greater than 4,000 square feet	P
Less than 4,000 square feet	P
Crematoriums	S
Drive-Through Establishments (ex: pharmacy, dry cleaners, restaurants) (§ 26.11)	S*
Dry Cleaning & Laundry Services (cleaning equipment is used to service only the premises at which it is located)	P
Electronic & Precision Equipment Repair& Maintenance (§ 26.18)	P
Financial Institutions (§ 26.18)	P
Food/beverage bottling & packaging	P
Funeral Homes & Mortuaries (§ 26.18)	P
Gas Station/EV Station (§ 26.27)	S*
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)	P
Outdoor Sales of automobiles, trucks, motorcycles, ATVs, marine craft, farm implements, contractor’s equipment, Manufactured Homes and similar units. (§ 26.29)	S*
Outdoor vendors	P
Parking lots, Off Street & Accessory Loading Areas as a main use/ Parking Structures	P
Personal Services (§ 26.18)	P

**General Business District**

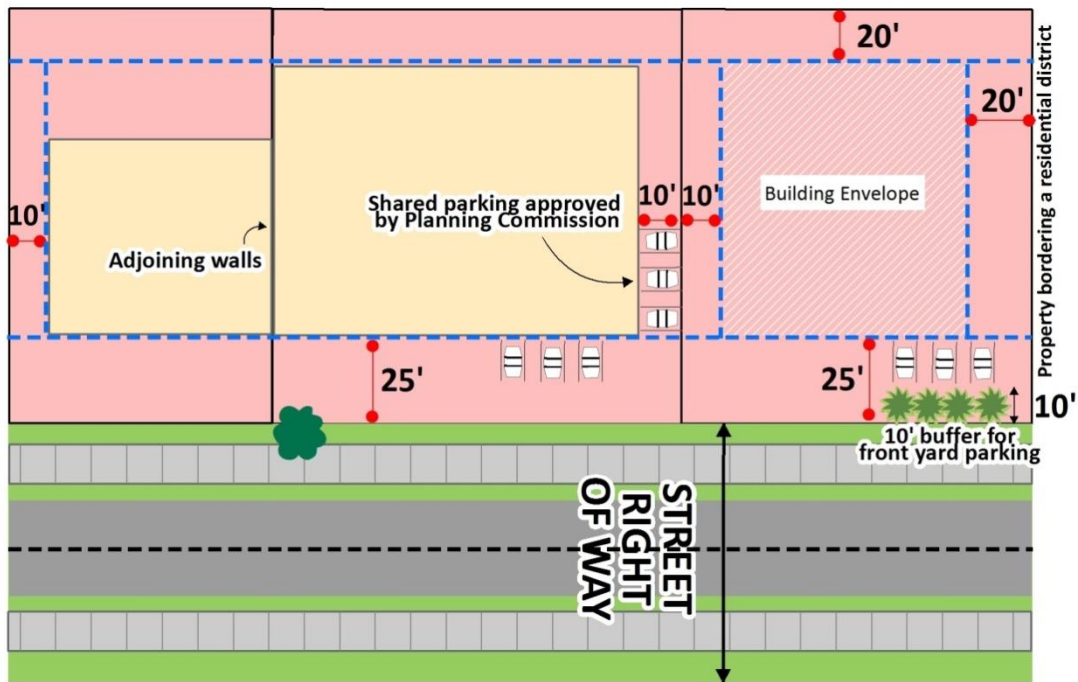
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	<b>B-2</b>
Pet Care (except Veterinary and Animal Shelters)	P
Print Shop	P
Professional Cleaning Services (§ 26.18)	P
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)	P
Retail Uses with Outdoor Storage/Outdoor display	S
Rental Centers	P
Restaurants/Bar with or without indoor seating	P
Retail Stores	P
Sexually Oriented Businesses (§ 26.15)	P*
Veterinary Clinics/Animal Clinics/Animal Hospitals (§ 26.07)	S*
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
Television/Radio Broadcasting Stations (no tower)	P
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	P
Government/Public facilities (§ 26.16)	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Adult day care	P
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	P
Hospitals	P
Assisted Living Home/Nursing Home	P
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	P
Special Accommodation Use	P*
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
Transitional Housing Facilities	S*
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>	

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	<b>B-2</b>
Food/beverage processing (§ 26.31)	P*
Mines, quarries, and gravel pits (§ 26.08)	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Duplex (§ 26.33)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
Living Quarters for Caretaker/Security	P
One-Family Dwelling	P
Recreational Vehicles (§ 26.06)	P*
<b>TRANSPORTATION/WAREHOUSING/WHOLESALE/STORAGE/SHIPPING</b>	
Scenic & Sightseeing Transportation/Ground Passenger Transportation	P
Storage Buildings (including mini-storage) & Commercial warehousing (§ 26.30)	S*
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 11.02 District Development Standards**

A. Lot & Structure Standards	
<b>1. Minimum Lot Area</b>	<b>None</b>
<b>2. Minimum Lot Width</b>	<b>100 feet</b>
<b>3. Maximum Building Height</b>	<b>30 feet</b>
	<p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ul style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ul> <p>a. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ul style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ul>
<b>4. Maximum Lot Coverage by the Area of all Buildings</b>	<b>None</b>
<b>5. Minimum Floor Area</b>	<b>None</b>

<b>B. Setbacks</b>	
<b>1. Minimum Front Yard</b>	<b>25 feet</b> Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.
<b>2. Minimum Rear Yard</b>	<b>20 feet</b> Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.
<b>3. Minimum Side Yard</b>	<b>10 feet</b> <ul style="list-style-type: none"> <li>a. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</li> <li>b. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</li> <li>c. For nonresidential uses, driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access.</li> </ul>



**4. Other Regulations**  
Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.



# Article 12

## B-3

### Commercial/Industrial District

Section	Name	Pg
12.00	Intent	12-1
12.01	Principal Uses & Special Uses Permitted	12-1
12.02	District Development Standards	12-3

#### Section 12.00 Intent

The B-3 Commercial/Industrial District is intended to accommodate selected industrial uses in locations that also have the potential for general business use. Based on physical site characteristics related to existing buildings, road access, natural buffer features, and other transition conditions with housing and resort areas, the B-3 District can offer greater flexibility in situations where selected industrial uses and commercial uses are feasible. The District is particularly intended to accommodate technical industries suited to Emmet County, and whose physical operational effects can be confined to the site.

#### Section 12.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	<b>B-3</b>
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	P
Farms, commercial	P
Nursery, landscaping and floriculture	S
Meat processing	S
<b>ENTERTAINMENT &amp; RECREATION</b>	
Archery Ranges	P
Indoor recreation (§ 26.18)	P
Outdoor Recreation Facilities	S
Private Clubs; Fraternal Lodges (§ 26.18)	P
Firearm shooting range	S
Theaters/Performing Arts Facilities	P
<b>COMMERCIAL</b>	
Art Studios /Museums & Galleries	P
Auto Body/ Vehicle Repair/Boat Repair Oil Change (§ 26.28)	P*
Bed & Breakfasts	P
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	P
Cabin Courts	P
Carwashes	P

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	<b>B-3</b>
Caterers/Food Service Contractors	P
Contractors (ex: electrical, plumbing, heating, building) Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)	P*
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship	
Greater than 4,000 square feet	P
Less than 4,000 square feet	P
Crematoriums	S
Drive-Through Establishments (ex: pharmacy, dry cleaners, restaurants) (§ 26.11)	S*
Dry Cleaning & Laundry Services (cleaning equipment is used to service only the premises at which it is located)	P
Electronic & Precision Equipment Repair& Maintenance (§ 26.18)	P
Financial Institutions (§ 26.18)	P
Food/beverage bottling & packaging	P
Funeral Homes & Mortuaries (§ 26.18)	P
Gas Station/EV Station (§ 26.27)	S*
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)	P
Outdoor vendors	P



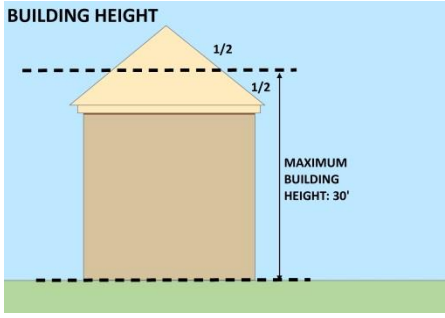
**Commercial/Industrial District**

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	<b>B-3</b>
Parking lots, Off Street & Accessory Loading Areas as a main use/ Parking Structures	P
Personal Services (§ 26.18)	P
Pet Care (except Veterinary and Animal Shelters)	P
Print Shop	P
Professional Cleaning Services (§ 26.18)	P
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)	P
Rental Centers	P
Restaurants/Bar with or without indoor seating	P
Retail Stores	P
Sexually Oriented Businesses (§ 26.15)	P*
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
Television/Radio Broadcasting Stations (no tower)	P
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	P
Government/Public facilities (§ 26.16)	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Adult day care	P
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	P
Hospitals	P
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	P
Special Accommodation Use	P*
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
Transitional Housing Facilities	S*
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>	
Food/beverage processing (§ 26.31)	P*

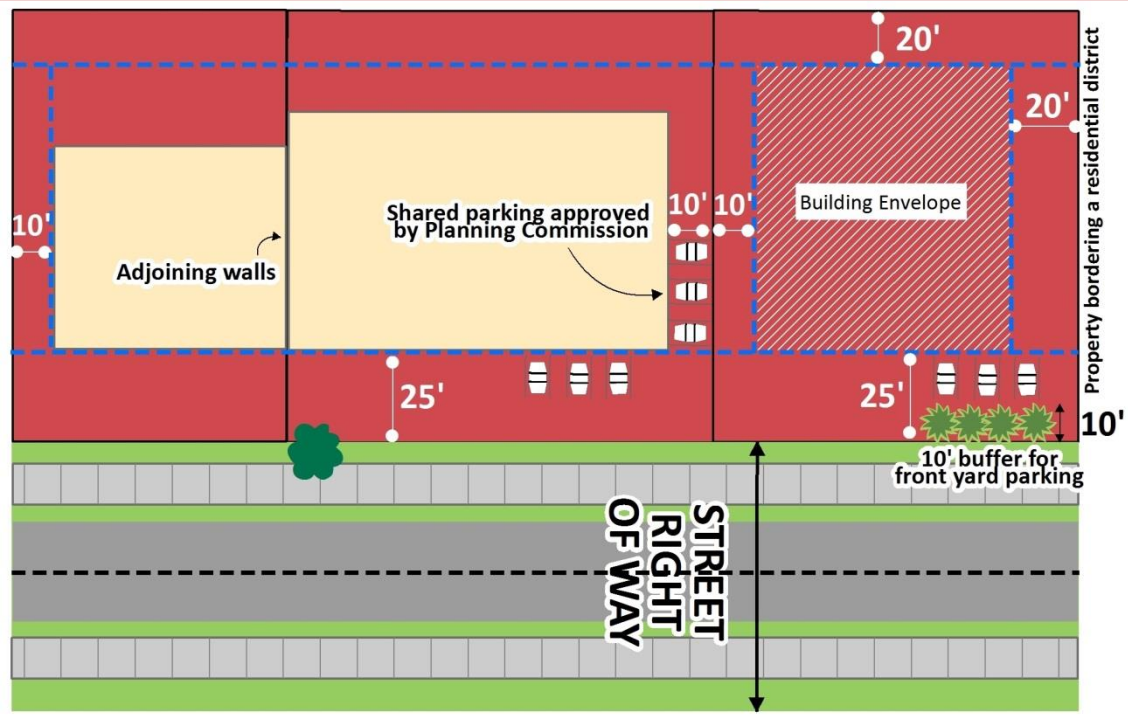
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	<b>B-3</b>
Light industrial (§ 26.31)	P*
Mines, quarries, and gravel pits (§ 26.08)	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Duplex (§ 26.33)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
Living Quarters for Caretaker/Security	P
One-Family Dwelling	P
Recreational Vehicles (§ 26.06)	P*
<b>TRANSPORTATION/WAREHOUSING/WHOLESALE/STORAGE/SHIPPING</b>	
Scenic & Sightseeing Transportation/Ground Passenger Transportation	P
Storage Buildings (including mini-storage) & Commercial warehousing (§ 26.30)	S*
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	P*
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 12.02 District Development Standards**

A. Lot & Structure Standards	
<b>1. Minimum Lot Area</b>	None
<b>2. Minimum Lot Width</b>	100 feet
<b>3. Maximum Building Height</b>	<p><b>30 feet</b></p> <p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ol style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ol> <p>a. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined by that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces, shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
<b>4. Maximum Lot Coverage by the Area of all Buildings</b>	None
<b>5. Minimum Floor Area</b>	None



B. Setbacks	
1. Minimum Front Yard	<p><b>25 feet</b></p> <p>Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.</p>
2. Minimum Rear Yard	<p><b>20 feet</b></p> <p>Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.</p>
3. Minimum Side Yard	<p><b>10 feet</b></p> <p>a. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes.</p> <p>b. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.</p> <p>c. For nonresidential uses, driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access.</p>



**4. Other Regulations**  
Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.

**C. Required Conditions**

Each use permitted in the B-3 District shall comply with the following site development conditions:

- A. No open storage of finished goods or raw materials in front or side yards, except screened dumpster locations for normal waste disposal purposes.
- B. Any machinery used in the production process shall be of an operational character that is confined to the premises, and any noise, vibration, glare, smoke, dust, or other operational effects shall not be discernible from off the premises or exceed nuisance levels of other uses permitted in the B-3 District.

The Planning Commission may modify or waive required conditions in this section if the applicant can demonstrate that no good or practical purpose would be served by strict compliance with such requirements, provided however, that any or all waivers or modifications be documented on the site plan and are agreed to by the applicant.

# Article 13

## P-T

### Parking Transition District

Section	Name	Pg
13.00	Intent	13-1
13.01	Principal Uses & Special Uses Permitted	13-1
13.02	Required Conditions	13-3
13.03	District Development Standards	13-3

### Section 13.00 Intent

The Parking Transition District is intended for application in those land use situations where Non-residential Districts and Residential Districts face or may face across a common fronting street, and the nonresidential uses have access from another street or road, primarily on double frontage lots. The P-T District provides for expanded business uses and establishes minimum transition standards.

### Section 13.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	P
Farms, commercial	P
<b>ENTERTAINMENT &amp; RECREATION</b>	
Archery Ranges	P
Private Clubs; Fraternal Lodges (§ 26.18)	P
<b>COMMERCIAL</b>	
Art Studios /Museums & Galleries	P
Bed & Breakfasts	P
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	P
Cabin Courts	P
Caterers/Food Service Contractors	P
Contractors (ex: electrical, plumbing, heating, building) Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)	P*
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship	
Greater than 4,000 square feet	
Less than 4,000 square feet	P
Dry Cleaning & Laundry Services (cleaning equipment is used to service only the premises at which it is located)	P

P = Permitted by right S = Permitted with a Special Use Permit NP = No Permit Required *Uses with Supplemental Regulations	
Electronic & Precision Equipment Repair & Maintenance (§ 26.18)	P
Financial Institutions (§ 26.18)	P
Funeral Homes & Mortuaries (§ 26.18)	P
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)	P
Outdoor vendors	P
Parking lots, Off Street & Accessory Loading Areas as a main use/ Parking Structures	P
Personal Services (§ 26.18)	P
Pet Care (except Veterinary and Animal Shelters)	S
Professional Cleaning Services (§ 26.18)	P
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)	P
Rental Centers	P
Restaurants/Bar with or without indoor seating	P
Retail Stores	P
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
Television/Radio Broadcasting Stations (no tower)	P
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	P

**Parking Transition District**

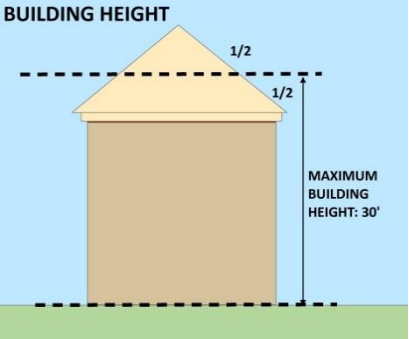
<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Government/Public facilities (§ 26.16)	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Adult day care	P
Child Care Services (see three following rows)	
Family Child Care Home (6 or fewer)	P
Group Child Care Home (7 -12)	P
Child Care Center or Day Care Center/Nursery School	P
Hospitals	
Assisted Living Home/Nursing Home	P
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	P
Special Accommodation Use	P*
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
Adult foster care family home or small group home	P
Adult foster care group home	P
Transitional Housing Facilities	S*
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>	
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
Uses that are an expansions of existing business properties from an adjoining B-1, B-2, or B-3 District	P
<b>RESIDENTIAL USES</b>	

<b>P</b> = Permitted by right <b>S</b> = Permitted with a Special Use Permit <b>NP</b> = No Permit Required *Uses with Supplemental Regulations	
Accessory Dwelling Unit (§ 26.37)	p*
Duplex (§ 26.33)	p*
Home Occupation (§ 26.09)	p*
Home Based Business (§ 26.09)	S*
One-Family Dwelling	P
Multiple-Family Dwelling Units	P
Recreational Vehicles (§ 26.06)	p*
<b>UTILITIES/ENERGY</b>	
Solar installations, Roof Mounted (§ 26.36)	p*
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*
Wind Energy Systems, On-Site, up to 60' in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

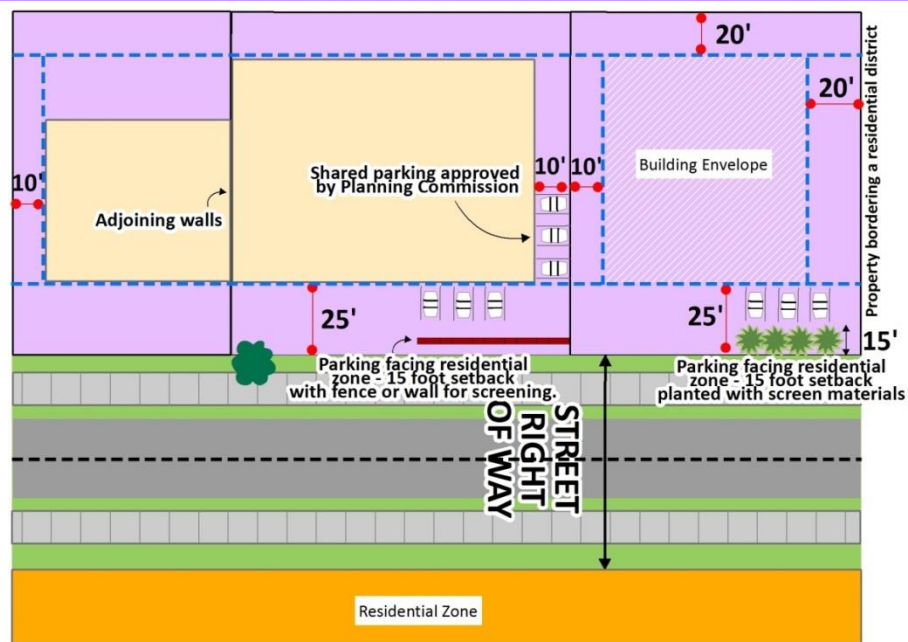
**Section 13.02 Required Conditions**

Parking lots occupying P-T District properties shall maintain a minimum of 15 feet of setback when such parking faces or is across from residential zoned property. The 15 foot yard shall be planted with screening materials, fences and/or otherwise treated so as to obscure or break-up the view of parked vehicles.

**Section 13.03 District Development Standards**

A. Lot & Structure Standards	
<b>1. Minimum Lot Area</b>	<b>None</b>
<b>2. Minimum Lot Width</b>	<b>100 feet</b>
<b>3. Maximum Building Height</b>	<b>30 feet</b>
	<p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ol style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ol> <p>a. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
<b>4. Minimum Building Width</b>	<b>20 feet for at least 1/2 its length</b> <b>This provision applies to permanent dwelling units and not accessory dwelling units.</b>
<b>5. Maximum Lot Coverage by the Area of all Buildings</b>	<b>None</b>
<b>6. Minimum Floor Area</b>	<b>None</b>

B. Setbacks	
<b>1. Minimum Front Yard</b>	<b>25 feet</b> Parking lots occupying P-T District properties shall maintain a minimum of 15 feet of setback when such parking faces or is across from residential zoned property. The 15 foot yard shall be planted with screening materials, fences and/or otherwise treated so as to obscure or break-up the view of parked vehicles.
<b>2. Minimum Rear Yard</b>	<b>20 feet</b> Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback. RESIDENCES ONLY: Setback sixty (60) feet from the high water mark.
<b>3. Minimum Side Yard</b>	<b>10 feet</b> a. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes. b. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.



**4. Other Regulations**

- For residential lots with less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.
- Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.
- For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access.
- Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.



# Article 14

## I - Industrial District

Section	Name	Pg
14.00	Intent	14-1
14.01	Principal Uses & Special Uses Permitted	14-1
14.02	District Development Standards	14-4

### Section 14.00 Intent

The I-Industrial District is designed to primarily accommodate wholesale activities, warehouses and industrial operations whose external physical effects are restricted to the area of the district and do not affect in a detrimental way any of the surrounding districts. The Industrial District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material.

The Industrial District is designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The District is intended to permit the manufacturing, processing and compounding of semi-finished products or products from raw materials as well as from previously prepared material as a Special Land Use.

### Section 14.01 Principal Uses & Special Uses Permitted

No building or land shall be used and no building shall be erected except for one or more of the following specified uses (also shown in [Article 18: Land Use Matrix](#)):

P = Permitted by right S = Permitted with a Special Use Permit *Uses with Supplemental Regulations	
<b>AGRICULTURE &amp; FORESTRY</b>	
Accessory uses on commercial farms (§ 26.34)	P
Farms, commercial	P
Nursery, landscaping and floriculture	P
Meat processing	S
Sawmills, Planing Mills, Veneer Mills and related operations (§ 26.22)	S*
<b>ENTERTAINMENT &amp; RECREATION</b>	
Indoor recreation (§ 26.18)	P
Outdoor Performance Facilities/Theaters (§ 26.18)	S
Private Clubs; Fraternal Lodges (§ 26.18)	P
Theaters/Performing Arts Facilities	P
<b>COMMERCIAL</b>	
Animal Shelter/Kennels (§ 26.07)	p*
Art Studios /Museums & Galleries	P
Auto Body/ Vehicle Repair/Boat Repair Oil Change (§ 26.28)	p*
Automotive Equipment Rental/Leasing	S

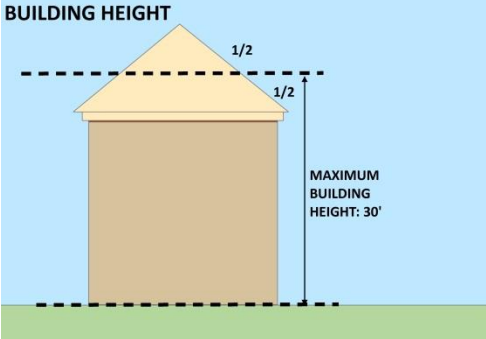
P = Permitted by right S = Permitted with a Special Use Permit *Uses with Supplemental Regulations	
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	P
Cabin Courts	P
Carwashes	P
Caterers/Food Service Contractors	P
Commercial/Industrial Equipment Rental & Leasing	S
Contractors (ex: electrical, plumbing, heating, building)	
Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)	P
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Greater than 4,000 square feet	P
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship Less than 4,000 square feet	P
Crematoriums	P
Drive-Through Establishments (ex: pharmacy, dry cleaners, restaurants) (§ 26.11)	S*
Dry Cleaning & Laundry Services (cleaning equipment is used to service only the premises at which it is located)	P
Electronic & Precision Equipment Repair& Maintenance (§ 26.18)	P

**Industrial District**

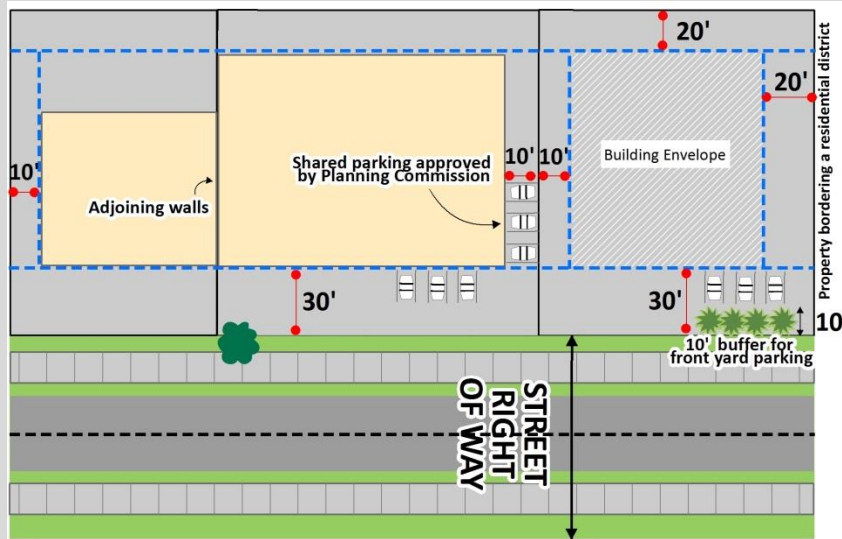
P = Permitted by right S = Permitted with a Special Use Permit *Uses with Supplemental Regulations	
Financial Institutions (§ 26.18)	P
Food/beverage bottling & packaging	P
Funeral Homes & Mortuaries (§ 26.18)	P
Gas Station/EV Station (§ 26.27)	P*
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)	P
Outdoor Sales of automobiles, trucks, motorcycles, ATVs, marine craft, farm implements, contractor’s equipment, Manufactured Homes and similar units. (§ 26.29)	S*
Outdoor vendors	P
Parking lots, Off Street & Accessory Loading Areas as a main use/ Parking Structures	P
Personal Services (§ 26.18)	P
Pet Care (except Veterinary and Animal Shelters)	S
Professional Cleaning Services (§ 26.18)	P
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)	P
Retail Uses with Outdoor Storage/Outdoor display	S
Rental Centers	P
Restaurants/Bar with or without indoor seating	P
Retail Stores	P
Sexually Oriented Businesses (§ 26.15)	P*
Veterinary Clinics/Animal Clinics/Animal Hospitals (§ 26.07)	S*
<b>COMMUNICATIONS</b>	
Individual Television/Radio Reception Tower (§ 26.02)	P*
Television/Radio Broadcasting Stations (no tower)	P
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>	
Educational Facilities (§ 26.16)	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>	
Child Care Center or Day Care Center/Nursery School	P
Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	P
State-Licensed Residential Facilities (Adult Foster Care Facility).	P
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>	
Food/beverage processing (§ 26.31)	P*
Farm products processing (excluding concentrated animal feeding operations)	P
Heavy industry (§ 26.31)	S*
Junkyards/salvage yards/scrap yards/motor vehicle impoundment and wrecking yards (§ 26.10)	S*
Light industrial (§ 26.31)	P*
Mines, quarries, and gravel pits (§ 26.08)	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)	S*

P = Permitted by right S = Permitted with a Special Use Permit *Uses with Supplemental Regulations	
Septage Waste treatment facility (§ 26.32)	S*
Temporary and or portable Mining Operations, Hot and Cold Mix Asphalt plants, Ready Mix concrete plants and similar uses (§ 26.23)	S*
<b>MISCELLANEOUS</b>	
Accessory Buildings & Uses Incidental to Main Permitted Uses	P
<b>RESIDENTIAL USES</b>	
Duplex (§ 26.33)	P*
Home Occupation (§ 26.09)	P*
Home Based Business (§ 26.09)	S*
Living Quarters for Caretaker/Security	P
Mobile Home Community (with accessory uses such as laundry facilities, office building, and community building) (§ 26.05)	S*
Recreational Vehicles (§ 26.06)	P*
<b>TRANSPORTATION/WAREHOUSING/WHOLESALE/STORAGE/SHIPPING</b>	
Freight Terminals/Trucking Facilities	P
Heliports/Helistops (§ 26.14)	S*
Scenic & Sightseeing Transportation/Ground Passenger Transportation	P
Storage Buildings (including mini-storage) & Commercial warehousing (§ 26.30)	P*
<b>UTILITIES/ENERGY</b>	
Electrical Transformer Stations & Substations	P
Gas Regulator Stations	P
Heating & Electric Power Generating Plants	S
Solar installations, Roof Mounted (§ 26.36)	P*
Solar installations, Utility Scale (§ 26.36)	S*
Water & Wastewater Treatment Plants & Reservoirs	S
Wind Site Assessment Systems (§ 26.03)	S*
Wind Energy Systems, On-Site, greater than 60’ in height	S*
Wind Energy Systems, On-Site, up to 60’ in height	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>	
Home Office	NP
Essential Services & Public Utilities	NP
Voting Place	NP
Commercial farms	NP
Alterations	NP
Internal Relocations or Replacement	NP
Open Space	NP
Personal Recreation	NP
Plowing and planting	NP
Timber Harvesting	NP
Residential access	NP
Playhouses less than 200 sq. ft. in floor area	NP

**Section 14.02 District Development Standards**

<b>A. Lot &amp; Structure Standards</b>	
<b>1. Minimum Lot Area</b>	<b>None</b>
<b>2. Minimum Lot Width</b>	<b>100 feet</b>
<b>3. Maximum Building Height</b>	<b>30 feet</b>
	<p>a. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:</p> <ol style="list-style-type: none"> <li>(1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.</li> <li>(2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.</li> </ol>
	<p>a. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:</p> <ol style="list-style-type: none"> <li>(1) It is determined that the added height will not significantly interfere with line-of-sight views.</li> <li>(2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.</li> <li>(3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces shall not exceed fifty (50) percent.</li> <li>(4) If applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.</li> <li>(5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.</li> </ol>
<b>4. Maximum Lot Coverage by the Area of all Buildings</b>	<b>None</b>
<b>5. Minimum Floor Area</b>	<b>None</b>

B. Setbacks	
<b>1. Minimum Front Yard</b>	<b>30 feet</b> a. Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.
<b>2. Minimum Rear Yard</b>	<b>20 feet</b> Refer to <a href="#">Section 22.11.2</a> for Minimum Waterfront Setback.
<b>3. Minimum Side Yard</b>	<b>10 feet</b> a. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes. b. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.



4. Other Regulations
- a. Driveways, sidewalks, parking areas, loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access.
  - b. Outside stairways, fire escapes, vestibules, balconies, bay windows, and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.

- C. Required Conditions
- a. For all Special Uses and for any industrial uses, which in the opinion of the Zoning Administrator, would constitute a special nuisance or danger because of the nature of the operation (fire, explosion, radiation, noise, air pollution, emissions and the like), the applicant for a permit may be required to submit certified statements that the proposed industrial use meets at least the minimum safety-health environmental standards prescribed by state and/or federal standards pertaining to the specific use.
  - b. The extent of walls or fences in the I-1 District, where required, and for all Special Uses, shall be determined by the Planning Commission. Fences or walls shall not be less than four feet six inches (4' 6") in height, and may be required to be eight (8) feet in height. A chain link type fence, with heavy evergreen shrubbery inside of the fence, shall be considered to be an obscuring fence.

The Planning Commission may waive, or modify, any wall, fence, greenbelt or special setback provision in the I-1 District, where in its determination no good or practical purpose would be served, including such reasons as large site area, natural isolation, land ownership patterns, natural barriers or screens and the like.

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# Article 15

**REPEALED**

# Article 16

## PUD-RO

### Planned Unit Development Residential Overlay

Section	Name	Pg
16.00	Intent	16-1
16.01	Preliminary PUD Residential Overlay Plan	16-2
16.02	Final PUD Residential Overlay Plan	16-2
16.03	Procedures	16-3
16.04	Land Use Standards in Residential PUD-RO Overlays	16-9
16.05	Design Standards	16-10

#### Section 16.00 Intent

The Planned Unit Development (PUD) Residential Overlay is structured and designed to advance the following goals:

- A. To encourage a more imaginative planned residential community through the application of comprehensive land use planning techniques at the project level.
- B. To provide for a controlled mix of land use types when coordinated into an overall property use plan without the incidence of spot zoning.
- C. To offer incentives to cluster uses in order to reduce development costs and provide more protection for natural habitats and open spaces.
- D. To coordinate development on larger tracts of land and encourage efficiency within the project with respect to housing, circulation (pedestrian ways, roads, etc.), integrated design features, utility services, and environmental concerns.
- E. To encourage a necessary balance between physical improvements, community needs, and site amenities such as scenic views, open space, recreation areas, and environmentally sensitive habitats.
- F. To allow more flexibility in land development with respect to building setbacks, building densities and other standard zoning requirements.
- G. Provide a forum for communication between the developer, community officials, and the public concerning PUD Residential Overlay projects.
- H. To encourage housing development with a mixture of land uses primarily to serve the residential development.
- I. To encourage residential developments which support multi-modal transportation (e.g. connections to non-motorized trails; transit-oriented development, etc.).

The PUD RESIDENTIAL OVERLAY is a LAND USE OPTION, which would not result in an

underlying zoning district change. All proposed uses must be detailed in the Preliminary PUD Residential Overlay Plan review process.

**Section 16.01 Preliminary PUD Residential Overlay Plan**

The Preliminary PUD Residential Overlay Plan shall include details concerning the following:

- A. A generalized Plan Map of the Project Area:
  - 1. Drawn to scale.
  - 2. Indicating all lands under the control and/or ownership of the applicant or persons representing the owner, if that person is not the applicant.
- B. Sufficiently detailed to show the arrangement of land uses over the entire project area in a clear and concise manner.
  - 1. But need not show specific building shapes or sizes. A Preliminary PUD Residential Overlay Plan Map should be detailed with respect to existing conditions and proposed land uses, property boundaries, delineation of natural features, road, easements, utilities, a vicinity or location map, and other major interest features on or near the project that may impact the plan.
- C. The applicant shall consider impact to and design standards related to: sanitary sewers, stormwater drains, utilities, roads, soil erosion, environmentally sensitive areas (for example: wetlands, dunes, flood plains, etc.), and construction codes (building, electrical, plumbing, and mechanical).

**Section 16.02 Final PUD Residential Overlay Plan**

The Final PUD Residential Overlay Plan shall include details concerning the following:

- A. Densities of all proposed uses - such as the number of single family and multiple family dwelling units.
- B. Building envelopes for residences within the development.
- C. General building configurations and locations of all non-residential uses.
- D. Heights of buildings.
- E. Public and/or private roads including how the roads connect to existing transportation services.
- F. A contour map including final elevations.



- G. Identification and size of recreation areas and open space.
- H. Identification of environmentally sensitive areas.
- I. A planned schedule for phases and estimated time-line for development.
- J. An evaluation from the municipality or agency having jurisdiction regarding the impact of the development on public utilities and services including:
  - 1. Sewer
  - 2. Water
  - 3. Roads
  - 4. Fire Protection
  - 5. Schools
  - 6. Non-motorized trail connections
  - 7. Transit connections
  - 8. Others as applicable

**Section 16.03 Procedures**

All applications for Planned Unit Development (PUD) Residential Overlay projects shall be in accordance with the procedures outlined as follows:

**Section 16.03.1 Pre-Application Conference**

A Pre-Application Conference with the Zoning Administrator to review the basic requirements of the Zoning Ordinance as well as to review the procedures and design standards for a PUD Residential Overlay is required. As one option, the applicant may schedule an informal information meeting with the Planning Commission, but no official action on the PUD Residential Overlay may be taken at such meeting.

**Section 16.03.2 Preliminary PUD Residential Overlay Plan Review**

Following the Pre-Application Conference, the applicant may file a request with the Zoning Administrator seeking Planning Commission review of a Preliminary PUD Residential Overlay Plan for the subject property. Final approval of the Preliminary PUD Residential Overlay Plan shall be by the County Planning Commission with the recommendation from the township within which the project is located.

Preliminary review does not imply approval of the Final PUD Residential Overlay Plan, but is a step to determine levels of agreement and/or disagreement. Necessary requirements for a Preliminary PUD Residential Overlay Plan are as follows:

- A. **Filing requirements (Preliminary PUD Residential Overlay Plan)**
  - 1. Filing of the existing conditions map and the Preliminary PUD Residential Overlay Plan with the Zoning Administrator at least twenty-eight (28) days prior to the date of

the Planning Commission meeting, at which a Public Hearing on the plan is to be scheduled.

2. At least two (2) full-sized, and fourteen (14) reduced sized copies of all maps and graphic documentation shall be submitted at the time of filing.
3. Notice shall be given as required by **PA 110 of 2006, as amended**.
4. Map scale and identification information as prescribed for Site Plans under **Section 20.03** of this Ordinance.

**B. Plan Requirements (Preliminary PUD Residential Overlay Plan).**

The Preliminary PUD Residential Overlay Plan must contain information showing existing site conditions and proposed land uses, the rationale for the particular use arrangement selected, the identification of special site features recognized in the design, and pertinent density or quantity data to reflect demands on community services.

There are two graphic requirements for the Preliminary PUD Residential Overlay Plan step:

**1. An Existing Conditions Map which includes:**

- a. A property location map.
- b. Property dimensions and boundaries.
- c. Major tree stands.
- d. Water bodies (streams, rivers, lakes, and ponds).
- e. Rock outcrops.
- f. Wetlands – both regulated and unregulated.
- g. Drainage courses.
- h. Steep slopes.
- i. Generalized soil conditions.
- j. Dunes.
- k. Other natural features.
- l. Existing roads within and bordering the project.
- m. Buildings.
- n. Easements.
- o. Utilities.

**2. The Preliminary PUD Residential Overlay Plan Map, Per Section 16.01:**

The applicant must submit copies of the Preliminary PUD Residential Overlay Plan to government review agencies, as applicable, to gain compliance with health laws, drain laws, environmental laws, road agency laws, as well as rules governing road construction. Local fire protection agencies must be contacted in the preliminary phase. Specific items to include on or with the plan include:

- a. Total number of acres in the project for which PUD Residential Overlay designation is being sought.
- b. The number of residential units.

- c. The type and character of nonresidential uses.
- d. The acreage to be allotted to each use type.
- e. Any known deviations from ordinance provisions or items requiring a modification to design standards.
- f. The number of acres devoted to on-site open space and/or recreation uses.
- g. Any natural features or resources to be preserved.

**C. Review for Decision (Preliminary PUD Residential Overlay Plan).**

The Planning Commission, upon a review of the Preliminary PUD Residential Overlay Plan and all supporting documentation, shall act to approve, conditionally approve or reject the plan. Any conditional approval shall include a listing of conditions necessary to attain approval, and any rejection shall enumerate the reason for rejection.

Approval of Preliminary PUD Residential Overlay Plan authorizes the applicant to proceed with the preparation of the Final PUD Residential Overlay Plan.

**Section 16.03.3 Final PUD Residential Overlay Plan Review**

The Final PUD Residential Overlay Plan shall contain all of the elements prescribed for the Preliminary Plan, as defined in this Ordinance and shall take into account all of the following:

**A. Necessary Documentation: Final PUD Residential Overlay Plan**

1. No Final Plan can be approved until the Preliminary Plan has been reviewed and given final approval by the Planning Commission.
2. The Final Plan shall be in basic accord with the approved Preliminary PUD.
3. Residential Overlay Plan and shall include the following details:
  - a. A definitive Use Plan for the entire land area intended to be approved for the project or for the known uses in the project area.
  - b. Use plans must show residential building envelopes, and the general building configurations and locations, but need not show the exact dimension or shape of buildings, unless their detail for certain specific buildings is critical to the approval of the Final PUD Residential Overlay Plan. Land allocations for each use area shall be defined.
  - c. All arrangements for design, construction, maintenance and operation of utility systems shall have been finalized, although working drawings need not be completed for this element.
  - d. The PUD Residential Overlay’s ownership, management, and construction have been determined and documented, and where to be phased, a plan to demonstrate development continuity shall be presented.

- e. All common open space areas, greenbelts, transition areas, and setback areas shall be documented on the plan, and no use of these areas other than those identified on the plan shall be permitted without a formal revision of the plan.
- f. On-site circulation routes for vehicles, pedestrians, parking lots, bicycles, and the like shall be included as specific elements of the plan as well as the ingress and egress points from bordering public/private roads.
- g. Any existing or proposed deed restrictions, easements, or covenants pertinent to the project property shall be presented at this time. Actual filing of the documents need not occur until after site plan review, but before a zoning permit is issued.
- h. Final PUD Residential Overlay Plan shall include details concerning the following:
  - (1) Building configurations, including locations and heights of buildings.
  - (2) Specific arrangement of uses.
  - (3) Public and/or private roads.
  - (4) Identification of permanent open spaces.
  - (5) A contour map.
  - (6) Recreation areas.
  - (7) Environmentally sensitive areas.
  - (8) Evaluation of the impact on public utilities including sewer, water, solid, waste.
  - (9) Evaluation of the impact on community services such as schools, roads, fire, and police protection.
- i. Detailed information concerning densities of all proposed uses shall include:
  - (1) The number of single family and multiple family dwelling units.
  - (2) Design capacities of hotels and/or motels.
  - (3) Number and type of commercial units.
  - (4) Acreage of proposed open space/recreation areas.

**B. Filing Requirements: Final PUD Residential Overlay Plan**

1. The complete application packet shall be filed with the Zoning Administrator at least twenty-eight (28) days prior to the date of the Planning Commission meeting, at which a public hearing on the Plan and PUD Residential Overlay designation is to be scheduled.
2. At least two (2) full-sized and fourteen (14) reduced-sized copies of all maps and essential graphic documentation shall be submitted at the time of filing.
3. Review procedures and graphic requirements shall be the same as that prescribed for the Preliminary PUD Residential Overlay Plan.

4. Map scale identification information as prescribed for site plans under **Section 20.03** with allowable modification for parcels that are too large to practically map under those standards.

**C. Review for Decision (Final PUD Residential Overlay Plan)**

1. The Planning Commission, upon a thorough review of the Final PUD Residential Overlay Plan and all essential supporting documentation shall act to approve, conditionally approve, or reject the Final PUD Residential Overlay Plan.
2. With the approved Final PUD Residential Overlay Plan the Applicant may proceed with the preparation of Site Plans as provided for in Ordinance **Article 20** and subsequent thereto, seek the necessary Permits for Construction.

**D. PUD Residential Overlay Plan Revisions (Final PUD Residential Overlay Plan)**

1. The project must be constructed as indicated on the approved Final PUD Residential Overlay Plan with respect to lot configurations, uses, density, and all other details as illustrated, unless a formal request for revision is made.
2. Changes or revisions to an approved Final PUD Residential Overlay Plan may be initiated by the applicant. Requests for revisions shall follow the procedures as set forth in **Section 16.03.3: Final PUD Residential Overlay Plan Review**, which will include all relevant filing, hearing, and graphic requirements.
3. To add flexibility, the Zoning Administrator, with the approval of the Emmet County Planning Commission, may approve minor working changes to the Final PUD Residential Overlay Plan as follows:
  - a. Reorientation of buildings provided the intent, concept, and objectives of the PUD Residential Overlay are not circumvented, and no greater impact is exerted on adjacent properties.
  - b. Redistribution of the dwelling units among the proposed structures provided building height is not increased, and the dwelling unit density is not increased.
  - c. Realignment of roads, pedestrian ways, and/or parking lots based on the need to respect site features (topography, soils, bedrock, vegetation); or respond to minor reorientations of buildings.

**E. Site Plan (Final PUD Residential Overlay Plan)**

1. Following the approval of the **FINAL PUD RESIDENTIAL OVERLAY PLAN**, the applicant shall prepare a site plan pursuant to **Article 20 Plot Plans & Site Plan Review**. Approval of the site plan shall be necessary before zoning and construction permits can be issued. Site Plans may be for all or part of the project as elected by the

applicant and as approved by the Planning Commission. If sufficiently detailed, a Final PUD Residential Overlay Plan may also be submitted as the Site Plan. Individual residences, if shown on the Final PUD Residential Overlay Plan and if constructed within the building envelope, may be approved by the Zoning Administrator following the Final PUD Residential Overlay Plan approval.

**Section 16.03.4 Mutual Consent**

No Preliminary or Final PUD Residential Overlay Plan shall be approved unless the proposed project, the plan for the project and the land use(s) are mutually agreeable to the applicant, the township within which the project is located and the Emmet County Planning Commission.

**Section 16.03.5 A Final PUD Residential Overlay Plan Expiration, Repeal, or Renewal**

The expiration, repeal and renewal of a PUD Residential Overlay Plan shall be in accord with the following standards:

**A. Plan Expiration**

An approved Final PUD Residential Overlay Plan shall automatically expire after 24 months, following the effective approval date, if all of the following apply:

1. No earthwork or construction activities have started, and no valid construction permits are in effect.
2. The project appears to be abandoned, there is no apparent interest in beginning the PUD-RO as established, and no applications for renewal have been received.
3. No apparent effort is being made to market the PUD-RO project or operate it as an active development.

**B. Plan Renewal**

In order to renew a PUD-RO Plan, the PUD-RO owner must request the renewal in accordance with the following standards:

1. The PUD-RO owner must request renewal of the PUD-RO Plan before the expiration date.
2. Renewal shall be by formal action of the Planning Commission.
3. Renewal requests shall be filed at least twenty-eight (28) days prior to the scheduled meeting date of the review body, but no formal public hearing is required.
4. Renewals shall be for periods not to exceed 12 months, and only two (2) such renewals shall be permitted.

**Section 16.03.6 A Preliminary PUD-RO Plan Expiration or Repeal**

Preliminary PUD-RO Plans are considered a zoning overlay district under this Section and shall remain in effect until the Final PUD-RO Plan is approved and commenced or for 24 months, whichever occurs first.

**Section 16.03.7 Fees**

Fees for PUD-RO reviews shall be set by the County Board of Commissioners.

**Section 16.04 Land Use Standards in Residential PUD-RO Overlays**

The Planned Unit Development Residential Overlay (PUD-RO) shall permit uses and services on lands and in buildings according to the following standards.

- A. As a minimum, the uses permitted in the PUD Residential Overlay shall include those RESIDENTIAL uses listed in the R-2 General Residential District, as regulated therein.
- B. The PUD-RO District is an overlay and those uses within the underlying zoning district and those specifically identified on or in the approved Preliminary PUD Residential Overlay Plan shall be permitted in the PUD-RO. The permitted uses are to be reviewed as Special Land Uses and may be approved in a PUD Overlay District, as follows:
  - 1. The applicant can demonstrate by plan or by supporting documentation that there are sound functional reasons for all of the identified uses. Non-residential uses within the development shall primarily serve the development and local community.
  - 2. The applicant can demonstrate that specific uses or use complexes are desired or necessary to the project’s success and/or would have a desired benefit to the township in which it is located.
  - 3. All essential services, public buildings, public or private utilities, and related facilities needed to support the development are available.
- C. Non-residential uses which are permissible in a PUD Residential Overlay include: accessory site services, pools, recreation buildings and grounds, accessory maintenance garages and yards, essential services, and accessory utility buildings and structures. Any other non-residential uses must be specifically identified in the Preliminary PUD-RO.
- D. Based on site features of topography, scenic view plains, surface water and vegetation; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses and essential community services; the Planning Commission may allow reduced lot size, reduced lot width, reduced interior lot setbacks, reduced minimum floor area for permanent dwellings, and increased height. If appropriate, a mixture of cluster housing, one story garden apartments, and single family detached housing may be required to attain a compatible land use transition with adjoining properties.



- E. The proposed uses are determined to be in compliance with the Preliminary PUD-RO Plan, and would not be contrary to the goals or objectives of the Emmet County Master Plan.

**Section 16.05 Design Standards**

Projects proposed to be designed and developed as Planned Unit Development Residential Overlays shall comply with the following design standards:

**Section 16.05.1 Perimeter Setbacks**

- A. All PUD-RO projects shall establish and maintain perimeter setback of fifty (50) feet, except where more severe zoning setback standards may apply on water-impacted sites. Reduced perimeter setbacks may be proposed by the applicant who must show that the reduction is in the best interest of the community to allow continuity of a neighborhood or for other reasons subject to approval by the Planning Commission.
- B. The setback area shall be maintained as open space in lawns, landscaping, or wooded areas, and shall exclude paved surfaces (except ingress/egress), parking areas, or buildings of any kind.
- C. Pathways and trails may occupy a perimeter setback area, and such space may be used for storm water management, snow storage, and/or drainage systems.

**Section 16.05.2 Dwelling Unit Density in a PUD-RO**

- A. The density of residential units within a designated PUD Residential Overlay Project shall not exceed a gross density of the R-2 General Residential zoning district. Single family dwelling units shall utilize the R-1 One & Two Family Residential district standards for density.

**Section 16.05.3 Other Density Standards in PUD-ROs**

- A. The calculation of gross site density shall exclude land areas proposed for non-residential uses. Accessory uses of club houses, maintenance garages, golf courses, and similar community service uses may be counted in the acreage for gross allowable density.
- B. Land included in the calculation of dwelling unit density may include bodies of surface water and any land designated as or determined to be wetlands by the State of Michigan, provided that these areas are buffered by a 60-foot setback and are designated as common use areas. The 60-foot setback may also be included in the density calculations.
- C. In the case of need to interpret the facts of whether or not the property has wetlands for the purpose of this Section, the Planning Commission may require the expertise of recognized outside agencies or qualified professionals in the field.

**Section 16.05.4 Density Bonus**

Any lands dedicated to the community for public use (trails, water access, open spaces, etc.) or public services (parks, trails, fire halls, schools, etc.) may be counted in the project for density calculation purposes at 1.5 times the allowable density.

**Section 16.05.5 Building Height, Bulk and Arrangement**

A. The height, bulk, and arrangement of structures and buildings are declared to be critical elements of a PUD-RO Project, because of the following objectives:

1. Remain in scale with fire protection equipment and services that are within reasonable response time of the project.
2. Avoid overshadowing adjacent properties and/or buildings, which indicates mutual respect for property values.
3. Keeping in scale with the community as a whole, recognizing the role of community image in tourism, recreation, industrial attraction, and other aspects of economic development.
4. To the extent feasible or practical, respect scenic views from adjacent parcels, other on-site buildings, and tourist travel routes.

**B. Structure/Building Height**

The intended height of all structures proposed to exceed a height of thirty (30) feet shall be indicated at the time of filing a Final PUD-RO Plan. Structures above 30 feet may be approved, if the following criteria are met:

1. The structure is located a minimum of 100 feet from the PUD-RO perimeter.
2. Buildings that are proposed to exceed 30 feet are determined to be good land use in terms of the arrangement of the buildings, and open spaces, in relationship to other buildings and uses on the same property or on adjacent properties, and in terms of the specific location in the community.
3. If applicable, the taller buildings result in more protection of on-site environmental features including scenic views, wildlife habitat, wetlands, farmlands, forest stands and the like.
4. The project site area is large enough to be in scale with the specific height of proposed taller structures.
5. The proposed structure must not present an intrusion upon the skyline or shoreline and must not be out of character with adjacent land uses.

6. The height of the building must not be out of scale with fire-fighting and other emergency equipment. Fire agency review required.

**C. Bulk, Arrangement and Spacing**

The bulk and arrangement of buildings must be critical to the PUD-RO being satisfactorily sited within the community. In reviewing the PUD-RO Plan, the Planning Commission may require building spacing and building mass to be modified or altered in order to:

1. Comply with the stated objectives in this Article and Section: Building Height, Bulk and Arrangement.
2. Discourage long, unbroken building walls where it could detract from scenic views and/or other aesthetic values.
3. Arrange uses within the PUD-RO Project to serve use transition objectives, where such may be necessary to harmoniously blend the PUD-RO into the specific community area.
4. Buildings shall be spaced a minimum of twenty (20) feet apart. Add an additional two feet of separation for each foot of approved height above thirty feet.

**Section 16.05.6 Other Zoning Standards That May Apply**

The design standards of the PUD-RO shall apply to all PUD-RO projects. Any PUD-RO Project proposing or requiring standards not specifically included in Article 16 of this Ordinance, shall be subject to the standards in the Zoning Ordinance that apply to the particular design element. These include, but are not necessarily limited to: fencing, parking, signing, lighting, greenbelts, and related standards.

**Section 16.05.7 Site Consolidation for Coordinated Development**

The PUD-RO process may be applied for the purpose of consolidating several properties, under separate ownership, to encourage a coordinated planned development as though the properties were a single parcel. The use of the following permitted PUD-RO recommendations, under this subsection, will allow adjoining properties to establish a more desirable plan; primarily because the two or more parcels may vary in area, width, depth, and shape. By cooperating on a PUD-RO, which consolidates two or more ownerships, the following advantages are offered:

- A. Joint planning for the most opportune building sites.
- B. The promotion of architectural unity.
- C. Providing an integrated road system, including service roads, and/or integrated utility easements and facilities.
- D. Provide for connectivity to off-site non-motorized facilities.

A PUD-RO Plan for site consolidation for coordinated development shall be binding upon the two or more properties over which projected roads and/or utility improvements have been planned.

**Section 16.05.8 Modification to Design Standards**

- A. It is declared that the design of any given PUD Residential Overlay is strongly influenced by the specific characteristics of each individual site, and that a universal application of adopted design standards may not be in the best interest of the community and/or applicant. The modifications may be authorized by the Planning Commission. The Planning Commission is therefore granted authority, in specific cases, to modify and/or alter the PUD-RO design standards where it can be demonstrated that a strict application of those standards would have no good or practical purpose, because of one or more of the following:
  - 1. Unusual shape or dimension of the site or to encourage the joint planning of adjacent parcels.
  - 2. Presence of limiting conditions relating to soils, topography, bedrock, or other natural conditions that would inhibit good design.
  - 3. The need to respond appropriately to the influence of adjacent land uses, transportation services, or utility needs.
  - 4. Typical applications of setbacks, lot dimensions within the PUD-RO Project may be waived or modified as determined to be appropriate, within the PUD-RO Project boundaries.
- B. In granting modifications to a particular PUD-RO development, it shall be determined that by implementing the specified modifications, a more desirable PUD-RO plan will be created; particularly in terms of the PUD-ROs impact on adjacent, non-PUD-RO properties and/or the community as a whole.
- C. Modifications shall not be granted if they are found to be contrary to the spirit and intent of this Zoning Ordinance, or would be contrary to the principles and objectives of any County or Township Master Plan.
- D. Modifications shall not be permitted to the basic standards of dwelling unit density.

**Section 16.05.9 Township Review of a PUD Residential Overlay**

The authority to condition a PUD-RO approval (or denial) on the action of a Township Unit of Government is not statutorily feasible. However, it is the declared intent of the PUD-RO process to solicit recommendations from the Township Unit of Government that may be impacted by a proposed PUD-RO, and to consider input, facts and determinations of the Township’s decision.

# Article 17

## PUD

### Planned Unit Development District

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#### Section 17.00 Intent

The Planned Unit Development (PUD) District is structured and designed to advance the following goals.

- A. To encourage a more imaginative planned community through the application of comprehensive land use planning techniques at the project level.
- B. To provide for a controlled mix of land use types when coordinated into an overall property use plan without the incidence of spot zoning.
- C. To allow clustering of intensive uses to reduce development costs and provide more protection for natural features and open spaces.
- D. To coordinate development on larger tracts of land and encourage efficiency within the project with respect to roads, pedestrian-ways and utility services.
- E. To encourage a necessary balance between physical improvements, community needs, and site amenities such as scenic views, open space, recreation areas, and environmentally sensitive areas.
- F. To allow more flexibility in land development with respect to building setbacks, building densities and other standard zoning requirements.
- G. To encourage a unified and hence potentially more desirable development of large areas of land based on a Project Development Plan.
- H. Provide a forum for communication between the developer, community officials, and the public concerning PUD projects.

## Section 17.01 Procedures

All applications for Planned Unit Development (PUD) projects shall be in accordance with the procedures outlined for: (1) Pre-application Conference, (2) Preliminary Development Plan, and (3) Final Development Plan.

### 17.01.1 Pre-Application Conference

The applicant is required to schedule a Pre-Application Conference with the Zoning Administrator to review the basic requirements of the Zoning Ordinance as well as to review the procedures and design standards for a PUD. As one option, the applicant may schedule an informal meeting with the Planning Commission, but no official action on the PUD may be taken at such meeting.

The applicant is urged to meet informally with the township within which the project is located, and to obtain all pertinent design information from other agencies, including but not limited to the following responsibilities: sanitary sewers, drains, utilities, roads, soil erosion, wetlands, and construction codes (building, electrical, plumbing, and mechanical).

### 17.01.2 Preliminary PUD Development Plan Review (Rezoning)

Following the Pre-Application Conference, the applicant may file a request with the Zoning Administrator seeking Planning Commission review of a Preliminary PUD for the subject property. The application will be processed as a Zoning Ordinance Map Amendment (Rezoning). Final approval of the Preliminary Development Plan shall be by the County Board of Commissioners, who shall have reference to the review findings of the Planning Commission.

Preliminary review shall not imply approval of the Final Development Plan, but is a directional step to show levels of agreement or disagreement under the existing conditions and with the information available at the time of preliminary review.

### 17.01.3 Filing Requirements (Preliminary)

- A. Filing of the existing conditions map and the plan with the Zoning Administrator at least twenty-eight (28) days before the date of the Planning Commission meeting, at which a Public Hearing on the plan is to be scheduled.
- B. At least two (2) full-sized and fourteen (14) reduced sized copies of all maps, and graphic documentation shall be submitted at the time of filing.
- C. Map scale and identification information as prescribed for Site Plans under [Article 20](#) of this Ordinance.

### 17.01.4 Plan Requirements (Preliminary)

The Preliminary Development Plan must contain information concerning existing site conditions and proposed land uses, the rationale for the particular use arrangement selected, the identification

of special site features recognized in the design, and pertinent density or quantity data to reflect demands on community services.

There are two graphic requirements for the preliminary step:

**A. An Existing Conditions Map**

Includes a property location map, property dimensions and boundaries, major tree stands, water bodies (streams, rivers, lakes, and ponds), rock outcrops, wetlands - both regulated and unregulated, drainage courses, steep slopes, generalized soil conditions, and other natural features. Also, human made features including existing roads within and bordering the project, buildings, easements and utilities.

**B. The Preliminary Development Plan Map**

The applicant shall submit copies of the preliminary plan to government review agencies, as applicable, to gain compliance with health laws, drain laws, environmental laws, as well as rules governing road construction. Local fire protection agencies must be contacted in the preliminary phase. Specific items to include on or with the plan include: total number of acres in the project for which PUD designation is being sought, the number of residential units, the type and character of nonresidential uses, the acreage to be allotted to each use type, any known deviations from ordinance provisions, the number of acres devoted to on-site open space and/or recreation uses, and any natural features or resources to be preserved.

**17.01.5 Review for Decision (Preliminary)**

The Planning Commission, upon a review of the Preliminary Development Plan and all supporting documentation, shall recommend approval, conditional approval, or rejection of the plan to the Board of Commissioners. Any conditional approval shall include a listing of conditions necessary to attain approval, and any rejection shall enumerate the reason for rejection. If the Plan has been reviewed and approved by the Board of Commissioners, then the applicant may proceed with the preparation of the Final Development Plan.

**17.01.6 Final Development Plan Review**

- A. No PUD plan can be approved until a Final Development Plan has been reviewed and given approval by the Planning Commission.
- B. The Final Development Plan shall be in basic accord with the approved Preliminary Development Plan and shall be detailed with respect to the following:
  - 1. A definitive Use Plan for the entire land area intended to be approved for PUD project or for the known uses in the project area.
  - 2. Use plans must show the general building configurations and locations, but need not show the exact dimension or shape of buildings, unless their detail for certain specific buildings is critical to the approval of the Final PUD Plan. Land allocations for each use area shall be defined.



3. All arrangements for design, construction, maintenance and operation of utility systems shall have been finalized, although working drawings need not be completed for this element.
4. The PUD's ownership, management, and construction have been determined and documented, and where to be phased, a plan to demonstrate development continuity shall be presented.
5. All common open space areas, greenbelts, transition areas, and setback areas shall be documented on the plan, and no use of these areas other than those identified on the plan shall be permitted without a formal revision of the plan.
6. On-site circulation routes for vehicles, pedestrians, parking lots, bicycles, and the like shall be included as specific elements of the plan as well as the ingress and egress points from bordering public/private roads.
7. Any existing or proposed deed restrictions, easements, or covenants pertinent to the project property shall be presented at this time. Actual filing of the documents need not occur until after site plan review, but before a zoning permit is issued.

#### **17.01.7 Filing Requirements (Final)**

- A. The Final Development Plan shall be filed with the Zoning Administrator at least twenty-eight (28) days before the date of the Planning Commission meeting, at which the Plan is to be reviewed.
- B. At least two (2) full-sized and fourteen (14) reduced-sized copies of all maps and essential graphic documentation shall be submitted at the time of filing.
- C. Review procedures and graphic requirements shall be the same as that prescribed for the Preliminary PUD Project Development Plan.
- D. Map scale identification information as prescribed for site plans under [Article 20](#), with allowable modification for parcels that are too large to practically map under those standards.

#### **17.01.8 Review for Decision (Final)**

- A. The Planning Commission, upon a thorough review of the Final Development Plan and all essential supporting documentation shall act to approve, conditionally approve, or reject the Final Development Plan.
- B. With the approved Final Development Plan the Applicant may proceed with the preparation of Site Plans as provided for in Ordinance ([Article 20](#)), and subsequent thereto, seek the necessary Building and Environmental Permits for Construction.

### **17.01.9 PUD Plan Revisions (Final)**

- A. The project must be constructed as indicated on the approved Final Development Plan with respect to lot configurations, uses, density, and all other details as illustrated, unless a formal request for revision is made.
- B. Changes or revisions to an approved Final Project Development Plan may be initiated by the applicant. Requests for revisions shall follow the procedures as set forth for Final Development Plan approval, including the filing, hearing, and graphic requirements.
- C. To add flexibility, the Zoning Administrator, with the approval of the Emmet County Planning Commission, may approve minor working changes to the PUD Development Plan as follows:
  - 1. Reorientation of buildings provided; no such structure is moved more than twenty five (25) feet from the original plan location, the move is determined to be necessary based on site conditions not previously known, and the intent, concept, and objectives of the PUD are not circumvented, and no greater impact is exerted on adjacent properties.
  - 2. Redistribution of the dwelling units among the proposed structures, provided building height is not increased, and the dwelling unit density is not increased.
  - 3. Realignment of roads, pedestrian ways, and/or parking lots based on the need to respect site features (topography, soils, bedrock, vegetation); or respond to minor reorientations of buildings.

### **17.01.10 Reserved**

### **17.01.11 Site Plan**

Following the approval of the FINAL Development Plan, the applicant shall prepare a site plan pursuant to [Article 20](#). Approval of the site plan shall be necessary before zoning permits can be issued. Site Plans may be for all or part of the project as elected by the applicant and as approved by the Planning Commission. If sufficiently detailed, a Final PUD Project Development Plan may also be submitted as the Site Plan and reviewed simultaneously.

### **17.01.12 Mutual Consent**

No Preliminary or Final PUD shall be approved unless the proposed project, the plan for the project and the land uses(s) are mutually agreeable to the applicant, the municipality and County of Emmet.

### **17.01.13 Fees**

Fees for PUD Project Development Plan review shall be set from time to time by the County Board of Commissioners.

## Section 17.02 Land Use Standards in PUDs

The Planned Unit Development Districts shall permit uses and services on lands and in buildings according to the following standards.

- A. As a minimum, the uses permitted in the PUD District shall include those uses listed in the R-1 One and Two Family Residential District, as regulated therein. If the regulations of the PUD District are more restrictive, then the standards of the PUD District shall apply.
- B. All PUD Projects shall include only those uses and services identified on or in the approved Final Development Plan. The permitted uses, therefore, are Principal Uses Permitted and may be approved in a PUD, as follows:
  1. The applicant can demonstrate by plan or by supporting documentation that there are sound functional reasons for all of the identified uses. If a shopping center is proposed, it is necessary only to identify the use as "shopping center", but must state the intended market and level of service (PUD area, local community, regional area). Similar use group identification may be made for other functional complexes within a PUD, so long as there is a full identification of the usage.
  2. The applicant can demonstrate that specific uses or use complexes are desired or necessary to the project's success and/or would have a desired benefit to the political unit in which it is located.
  3. All essential services, public buildings, public or private utilities, and related facilities needed to support the project in the political unit of its location are available.
- C. Non-residential uses which are permissible in a Residential PUD include: accessory site services, pools, recreation buildings and grounds, accessory maintenance garages and yards, essential services, and accessory utility buildings and structures.
- D. Based on site features of topography, scenic view plains, surface water and vegetation; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses and essential community services; the Planning Commission may limit a PUD cluster housing development to no more than four (4) dwellings per cluster. If appropriate, a mixture of cluster housing, one story garden apartments and single family detached housing may be required to attain a compatible land use transition with adjoining properties.
- E. The proposed uses are determined to be in compliance with the Project Development Plan, and would not be contrary to the goals or objectives of any Comprehensive Land Use Plan.

- F. A Planned Unit Development shall not be permitted in any RR or SR Districts.
- G. On the basis of findings at the Public Hearing, specific site conditions, community land use plans, and the applicant's intent in establishing nonresidential uses, the Planning Commission may reject a PUD District as not being in accord with the land use goals of the community, and/or as not being appropriate for the specific property under consideration. In a PUD District, the County Board of Commissioners may reject the PUD plan for the reasons stated in this paragraph.

## Section 17.03

*Reserved*

## Section 17.04 Design Standards

Projects proposed to be designed and developed as Planned Unit Developments shall comply with the following design standards:

### 17.04.1 Perimeter Setbacks

All PUD projects shall establish and maintain perimeter setback of fifty (50) feet, except where more severe zoning setback standards may apply on water impacted sites. The setback area shall be maintained as open space in lawns or be landscaped, or wooded areas, but shall exclude paved surfaces, parking areas, or buildings of any kind. Pathways and trails may occupy a perimeter setback area, and such space may be used for storm water managements, snow storage, and/or drainage systems.

### 17.04.2 Dwelling Unit Density

The density of residential units within a designated PUD District Project shall not exceed a gross density of 1.980 units per acre.

### 17.04.3 Other Density Standards

- A. The calculation of gross site density shall exclude land areas proposed for non-residential uses, such as hotels, shopping centers, commercial amusement, and the like. Accessory uses of club houses, maintenance garages, golf courses, and similar community service uses may be counted in the acreage for gross allowable density.
- B. Any lands dedicated to the community for public use or public service (parks, fire halls, schools, etc.) may be counted in the project for density calculation purposes at two times (double) the allowable density, provided such lands are determined to be suitable for development and use (consider slope, water table, soils, bedrock, useable shape, etc).
- C. Land included in the calculation of dwelling unit density shall exclude natural bodies of surface water and any lands designated as or determined to be wetlands by the State of Michigan.

- D. In the case of need to interpret the facts of whether or not the property has wetlands for the purpose of this Section, the Planning Commission shall make the interpretation and may enlist the expertise of recognized outside agencies, such as, the United States Soil Conservation Service, the Michigan Department of Natural Resources, or other professionals in the field.

#### **17.04.4 Building Height, Bulk and Arrangement**

- A. The height, bulk, and arrangement of structures and buildings are declared to be critical elements of a PUD Project, because of the following objectives:
1. Remain in scale with fire protection equipment and services that are within a reasonable response time of the project.
  2. Avoid overshadowing adjacent properties and/or, adjacent buildings, a reflection of mutual respect for property values.
  3. Keeping in scale with the community as a whole, recognizing the role of community image in tourism, recreation, industrial attraction, and other aspects of economic development.
  4. To the extent feasible or practical, respect scenic views from adjacent parcels, other on-site buildings, and tourist travel routes.
- B. Structure / Building Height

The intended height of all structures proposed to exceed a height of thirty feet shall be indicated at the time of filing a Preliminary PUD Development Plan. Structures above 30 feet shall not be approved, unless all of the following criteria are met:

1. The applicant can demonstrate that by having taller structures, there will be more ground level space left in a natural condition or in open yard.
2. Buildings that are proposed to exceed 30 feet are determined to be good land use in terms of the arrangement of the buildings, and open spaces, in relationship to other buildings and uses on the same property or on adjacent properties, and in terms of the specific location in the community.
3. If applicable, the taller buildings result in more protection of on-site environmental features including scenic views, wildlife habitat, wetlands, farmlands, forest stands and the like.
4. The project site area is large enough to be in scale with the specific height of proposed taller structures.

5. A taller structure request may be denied or scaled back if the surrounding lands are evolving as a single family neighborhood, or otherwise would suffer potential devaluation.
6. The height increase can be shown to satisfy the stated objectives for regulating height as listed in this Ordinance Section, Par 3 above.
7. The proposed structure must not present an intrusion upon the skyline or shoreline and must not be out of character with adjacent land uses.
8. The height of the building must not be out of scale with fire-fighting and other emergency equipment.

#### C. Bulk, Arrangement and Spacing

The bulk and arrangement of buildings must be critical to the PUD being satisfactorily sited within the community. In reviewing the PUD Development Plan, the Planning Commission may require building spacing and building mass to be modified or altered in order to:

1. Comply with the stated objectives in this Article, and in this Section; Building Height, and Bulk and Arrangement.
2. Discourage long, unbroken building walls where it could detract from scenic view resources and/or aesthetic values.
3. Arrange uses within the PUD Project to serve use transition objectives, where such may be necessary to harmoniously blend the PUD into the specific community area.

Buildings shall be spaced a minimum of thirty feet apart. Add an additional two feet of separation for each foot of approved height above thirty feet.

#### **17.04.5 Other Zoning Standards That May Apply**

The design standards of the PUD District shall apply to all PUD projects. Any PUD Project proposing or requiring standards not specifically included in the PUD Section, shall be subject to the standards in the zoning ordinance which apply to the particular design element. These include, but are not necessarily limited to, fencing, parking, signing, lighting, greenbelts, and related standards.

#### **17.04.6 Site Consolidation for Coordinated Development**

The PUD process may be applied for the purposes of consolidating several properties under separate ownership to encourage a coordinated planned development as though the properties were a single parcel. The use of PUD under this subsection will permit adjoining properties to establish a more desirable plan because the two or more parcels may vary in area, width, depth, and shape.

By cooperating on a PUD which consolidated two or more ownerships, the following advantages occur:

- A. Joint planning for the most opportune building sites.
- B. Promote architectural unity.
- C. Provide for an integrated road system, including service roads, and/or integrated utility easements and facilities.

A PUD Development Plan for site consolidation for coordinated development shall be binding upon the two or more properties over which projected roads and/or utility improvements have been planned.

#### **17.04.7 Modification to Design Standards**

- A. It is declared that the design of any given PUD is strongly influenced by the specific characteristics of each individual site, and that a universal application of adopted design standards may not be in the best interest of the community and/or the applicant. The modifications are authorized by the approving body and subject to recommendations of the Planning Commission. The approving body is therefore granted authority, in specific cases, to modify and/or alter the PUD design standards where it can be demonstrated that a strict application of those standards would have no good or practical purpose, because of one or more of the following:
  - 1. Unusual shape or dimension of the site or to encourage the joint planning of adjacent parcels.
  - 2. Presence of limiting conditions relating to soils, topography, bedrock, or other natural conditions that would inhibit good design.
  - 3. The need to respond appropriately to the influence of adjacent land uses, transportation services, or utility needs.
  - 4. Typical applications of setbacks, lot dimensions within the PUD Project may be waived or modified as determined to be appropriate, within the PUD Project boundaries.
- B. In granting any modification to the standards for PUD development, it shall be determined that a better PUD plan can be put into place because of the modification, particularly in the terms of the PUD's impact on the adjacent non-PUD properties and the community as a whole.
- C. Modifications shall not be granted if they are found to be contrary to the spirit and intent of the zoning ordinance, or would be contrary to the principles and objectives of any County or Township Land Use Plan.



D. Modifications shall not be permitted to the basic standards of dwelling unit density.

**17.04.8 Township Review of a PUD**

The authority to condition a PUD approval (or denial) on the action of a Township Unit of Government is not statutorily feasible. However, it is the declared intent of the PUD process to solicit recommendations from the Township Unit of Government that may be impacted by a proposed PUD, and to consider input, facts and determinations of the Township's decision.

# Article 18

## Land Use Matrix

<u>Section</u>	<u>Name</u>	<u>Pg</u>
18.00	Construction of Land Use Matrix	103

### Section 18.00 Construction of Land Use Matrix

The Land Use Matrix contained in this Article contains all uses Permitted by Right and by Special Land Permits within all zoning districts within Emmet County.

The following shall apply to the Land Use Matrix:

- A. All uses denoted with a “P” are allowed by right in the district column in which they appear. A zoning permit may be required.
- B. All uses denoted with an “S” are allowed by Special Use Permit in the district column in which they appear. A Special Use Permit may be granted after the required public hearing.
- C. Uses in which no letter appears in a particular district column shall not be allowed within that district.
- D. Uses with an asterisk “\*” next to the title of the use have supplemental regulations found in **Article 26**.
- E. All uses denoted with a “NP” are allowed by right in the district column in which they appear without a zoning permit.

LAND USE	ZONING DISTRICT											
	R-1	R-2	RR	SR	B-1	B-2	B-3	P-T	I	FF-1	FF-2	FR
<b>AGRICULTURE &amp; FORESTRY</b>												
Accessory uses on commercial farms (§ 26.34)	S*	S*	S*	S*	P	P	P	P	P	S*	S*	
Farms, domestic (§ 26.12)	P*	P*	P*	P*						P*	P*	P*
Farms, commercial	P	P	P	P	P	P	P	P	P	P	P	P
Forest products processing (limited), Forest production operations, log storage yards, and related										P	P	P
Nursery, landscaping and floriculture					S	S	S		P	P	P	
Meat processing						S	S		S	S	S	
Sawmills, Planing Mills, Veneer Mills and related operations (§ 26.22)									S*	S*	S*	
Wineries and Hard Cider Operations on a farm (§ 26.35)	S*	S*	S*	S*						S*	S*	
<b>ENTERTAINMENT &amp; RECREATION</b>												
Archery Ranges					P	P	P	P		S	S	
Boat Launching Pads and Minor Accessory Facilities (other than marinas and enclosed storage buildings)			S	S								
Boat Docks, tourist/commercial/Marinas (including boat fuel sales, boat supplies & accessories)					S	S						
Campgrounds/Camping Area/Camping sites (§ 26.21)			S*	S*						S*	S*	
Country Clubs/Golf Courses/ Driving Ranges (§ 26.17)	S*		S*	S*						S*	S*	
Indoor recreation (§ 26.18)		S*			S	P	P		P			
Outdoor Performance Facilities/Theaters (§ 26.18)		S*			S	S			S			
Outdoor Recreation Facilities					S	S	S			S	S	
Private Clubs; Fraternal Lodges (§ 26.18)		S*			P	P	P	P	P			
Recreation Areas/ private, nonprofit (§ 26.19)	S*		S*	S*						S*	S*	S*
Firearm shooting range					S	S	S			P	P	
Theaters/Performing Arts Facilities						P	P		P			
<b>COMMERCIAL</b>												
Animal Shelter/Kennels (§ 26.07)						S*			P*	S*	S*	
Art Studios /Museums & Galleries		S			P	P	P	P	P	S	S	
Auto Body/ Vehicle Repair/Boat Repair Oil Change (§ 26.28)						S*	P*		P*			
Automotive Equipment Rental/Leasing						S			S			
Bed & Breakfasts		S			P	P	P	P		S	S	
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)					P	P	P	P	P	S	S	
Cabin Courts					P	P	P	P	P			
Carwashes						P	P		P			
Caterers/Food Service Contractors					P	P	P	P	P	S	S	
Cemeteries (§ 26.25)										S*	S*	S*
Commercial/Industrial Equipment Rental & Leasing						S			S			
Contractors (ex: electrical, plumbing, heating, building) Offices/Showrooms – indoor storage of materials/equipment (§ 26.24)					S*	S*	P*	P*	P	S*	S*	
Convention Centers/Conference Centers/Banquet Halls/Assembly Halls/ Places of Worship												
Greater than 4,000 square feet						P	P		P			
Less than 4,000 square feet	P	P	P	P	P	P	P	P	P	P	P	
Crematoriums						S	S		P			
Drive-Through Establishments (ex: pharmacy, dry cleaners, restaurants) (§ 26.11)						S*	S*		S*			
Dry Cleaning & Laundry Services (cleaning equipment is used to service only the premises at which it is located)					P	P	P	P	P			
Electronic & Precision Equipment Repair& Maintenance (§ 26.18)		S*			P	P	P	P	P			
Financial Institutions (§ 26.18)		S*			P	P	P	P	P			
Food/beverage bottling & packaging						P	P		P			
Funeral Homes & Mortuaries (§ 26.18)		S*			P	P	P	P	P			
Gas Station/EV Station (§ 26.27)					S*	S*	S*		P*			
Hotels & Motels, & Motor Inns (attached or detached units) (§ 26.18)		S*			P	P	P	P	P			
Outdoor Sales of automobiles, trucks, motorcycles, ATVs, marine craft, farm implements, contractor's equipment, Manufactured Homes and similar units. (§ 26.29)						S*			S*			
Outdoor vendors					P	P	P	P	P			

LAND USE	ZONING DISTRICT											
	R-1	R-2	RR	SR	B-1	B-2	B-3	P-T	I	FF-1	FF-2	FR
Parking lots, Off Street & Accessory Loading Areas as a main use/ Parking Structures						P	P	P	P			
Personal Services (§ 26.18)		S*			P	P	P	P	P			
Pet Care (except Veterinary and Animal Shelters)					S	P	P	S	S	S	S	
Print Shop					S	P	P					
Professional Cleaning Services (§ 26.18)		S*			P	P	P	P	P			
Professional Offices/Real Estate Offices/Health Care Offices and Clinics (§ 26.18)		S*			P	P	P	P	P			
Retail Uses with Outdoor Storage/Outdoor display						S			S			
Recreation Camps, Recreation Lodges, & Resorts (§ 26.04)			S*	S*						S	S	
Rental Centers					P	P	P	P	P			
Restaurants/Bar with or without indoor seating					P	P	P	P	P	S	S	
Retail Stores					P	P	P	P	P			
Sexually Oriented Businesses (§ 26.15)						P*	P*		P*			
Veterinary Clinics/Animal Clinics/Animal Hospitals (§ 26.07)						S*			S*	S*	S*	
<b>COMMUNICATIONS</b>												
Individual Television/Radio Reception Tower (§ 26.02)	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Television/Radio Broadcasting Stations (no tower)		S			P	P	P	P	P			
Commercial Television & Radio Towers, Public Utility TV Transmitting Towers, and public utility microwaves, Wireless Telecommunications Towers & Facilities & Alternative Tower Structures (§ 26.01)	S*	S*			S*	S*	S*		S*	S*	S*	
<b>EDUCATIONAL SERVICES/PUBLIC/GOVERNMENT FACILITIES</b>												
Educational Facilities (§ 26.16)	S*	S	S*	S*	P	P	P	P	P	P	P	P
Government/Public facilities (§ 26.16)	S*	S			P*	P	P	P		P	P	P
<b>HUMAN CARE &amp; SOCIAL ASSISTANCE</b>												
Adult day care	S	P			P	P	P	P		P	P	
Child Care Services (see three following rows)												
Family Child Care Home (6 or fewer)	P	P	P	P	P	P	P	P		P	P	P
Group Child Care Home (7 -12)	P	P	P	P	P	P	P	P		P	P	P
Child Care Center or Day Care Center/Nursery School	S	P			P	P	P	P	P	S	S	S
Hospitals	S	S				P	P			S	S	
Assisted Living Home/Nursing Home Residential Human Care and Treatment Facility (for example, a homeless shelter or a halfway house) unless otherwise exempt by law	S	S			P	P	P	P	P	S	S	
Special Accommodation Use	P*	P*			P*	P*	P*	P*		P*	P*	
State-Licensed Residential Facilities (Adult Foster Care Facility).	P	P	P	P	P	P	P	P	P	P	P	P
Adult foster care family home or small group home	P	P	P	P	P	P	P	P		P	P	P
Adult foster care group home	S	P	P	P	P	P	P	P		S	S	P
Transitional Housing Facilities		S*			S*	S*	S*	S*		S*	S*	
<b>MANUFACTURING/INDUSTRIAL/MINING/WASTE MANAGEMENT</b>												
Food/beverage processing (§ 26.31)					P*	P*	P*		P*			
Farm products processing (excluding concentrated animal feeding operations)									P	S	S	
Heavy industry (§ 26.31)									S*			
Junkyards/salvage yards/scrap yards/motor vehicle impoundment and wrecking yards (§ 26.10)									S*		S*	
Light industrial (§ 26.31)							P*		P*			
Mines, quarries, and gravel pits (§ 26.08)					S*	S*	S*		S*	S*	S*	S*
Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills (§ 26.20)					S*	S*	S*	S*	S*	S*	S*	S*
Septage Waste treatment facility (§ 26.32)									S*	S*	S*	
Temporary and or portable Mining Operations, Hot and Cold Mix Asphalt plants, Ready Mix concrete plants and similar uses (§ 26.23)									S*	S*	S*	S*
<b>MISCELLANEOUS</b>												
Accessory Buildings & Uses Incidental to Main Permitted Uses	P	P	P	P	P	P	P	P	P	P	P	P

LAND USE	ZONING DISTRICT											
	R-1	R-2	RR	SR	B-1	B-2	B-3	P-T	I	FF-1	FF-2	FR
Uses that are an expansions of existing business properties from an adjoining B-1, B-2, or B-3 District								P				
<b>RESIDENTIAL USES</b>												
Accessory Dwelling Unit (§ 26.37)	P*	P*	P*	P*				P*		P*	P*	
Cluster housing (§ 26.38)	S*	P*								P*	P*	
Customary Accessory Buildings (200 sq. ft. and over) without a Main Use (§ 26.13)	S*	S*								P*	P*	P*
Duplex (§ 26.33)	P*	P*			P*	P*	P*	P*	P*	P*	P*	P*
Home Occupation (§ 26.09)	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Home Based Business (§ 26.09)	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*
Living Quarters for Caretaker/Security					P	P	P		P	P	P	
Mobile Home Community (with accessory uses such as laundry facilities, office building, and community building) (§ 26.05)		S*							S*			
One-Family Dwelling	P	P	P	P	P	P	P	P		P	P	P
Multiple-Family Dwelling Units		P						P				
Rooming & Boarding Houses (group quarters)		S										
Recreational Vehicles (§ 26.06)	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Triplex, Quadplex (§ 26.33)	P*	P										
<b>TRANSPORTATION/WAREHOUSING/WHOLE SALE/STORAGE/SHIPPING</b>												
Airports (§ 26.26)										S*	S*	S*
Freight Terminals/Trucking Facilities									P			
Heliports/Helistops (§ 26.14)									S*	S*	S*	
Scenic & Sightseeing Transportation/Ground Passenger Transportation					S	P	P		P			
Storage Buildings (including mini-storage) & Commercial warehousing (§ 26.30)						S*	S*		P*	S*	S*	
<b>UTILITIES/ENERGY</b>												
Electrical Transformer Stations & Substations									P			
Gas Regulator Stations									P			
Heating & Electric Power Generating Plants									S			
Solar installations, Roof Mounted (§ 26.36)	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Solar installations, Utility Scale (§ 26.36)									S*	S*	S*	S*
Water & Wastewater Treatment Plants & Reservoirs									S	P	P	P
Wind Site Assessment Systems (§ 26.03)	S*	S*	S*		S*	S*	S*	S*	S*	S*	S*	S*
Wind Energy Systems, On-Site, greater than 60' in height	S*	S*	S*		S*	S*	S*	S*	S*	S*	S*	S*
Wind Energy Systems, On-Site, up to 60' in height	S*	S*	S*		S*	S*	S*	S*	S*	S*	S*	S*
Wind Energy Systems: Utility Grid										S*	S*	S*
<b>ACCESSORY USES ALLOWED BY RIGHT WITHOUT A PERMIT (SEE DEFINITIONS SECTION 2.01)</b>												
Home Office	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Essential Services & Public Utilities	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Voting Place	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Commercial farms	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Alterations	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Internal Relocations or Replacement	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Open Space	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Personal Recreation	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Plowing and planting	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Timber Harvesting	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Residential access	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Playhouses less than 200 sq. ft. in floor area	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP

# Article 19

## Schedule of Regulations

Section	Name	Pg
19.00	Limiting Height, Bulk, Density, and Area by Land Use	19-1
19.01	Notes to Section 19.00	19-2

### Section 19.00 Limiting Height, Bulk, Density and Area by Land Use

DISTRICTS	Minimum Lot Size per Unit or Use		Maximum Height of Structure in Feet	Minimum Yard Setback in Feet			Maximum Percent of Lot Coverage by the Area of all Buildings (1)	Dwelling Unit Minimum Floor Area in Square Feet
	Area	Width in Feet		Front (4)	Sides (4)	Rear (2,4)		
R-1 Residential	½ acre (a)	100 (a)	30 (f, h)	30 (e, g, i)	10 (d, g, i)	25 (i)	30%	560
R-2 General Residential	- (c)	100	30 (f, h)	30 (b, e, g, i)	20 (b, d, g, i)	35 (b, i)	35%	none
RR Recreation Residential	½ acre	100	30 (f, h)	40 (e, g, i, j)	10 (d, g, i)	35 (i, j)	30%	560
SR Scenic Resource	30,000 Sq. ft.	150	30 (f, h)	40 (e, g, i)	15 (d, g, i)	40 (i)	30%	720
B-1 Local Tourist Business	none	100	30 (f, h)	25 (e)	10 (d)	20	none	none
B-2 & B-3 General Business	none	100	30 (f, h)	25 (e)	10 (d)	20	none	none
P-T Parking Transition	-	-	30 (f, h)	See (3)	10 (d, i)	20 (i)	-	-
I Industrial	none	100	30 (f, h)	30 (e)	10 (d)	20	none	none
FF-1 Farm Forest	1 acre	150	30 (f, h)	40 (e, g, i)	20 (d, g, i)	35 (i)	35%	560
FF-2 Farm Forest	2 acres	200	30 (f, h)	40 (e, g, i)	20 (d, g, i)	35 (i)	35%	560
FR Forest Recreation	40 acres	300	30 (f, h)	40 (e, g)	20 (d, g)	35	35%	560
PUD	SEE ARTICLES 16 & 17							

(1) These provisions shall not apply to structures four (4) feet in height or less.  
 (2) Refer to [Section 22.11](#) for Minimum Waterfront Setback.  
 FOR RESIDENCES ONLY: Setback sixty (60) feet from the 1986 High Water Mark. (Lake Michigan = IGLD 582.35', 10/86)  
 (3) Refer to [Article 13, Section 13.03](#) for setback standards in P-T Districts.  
 (4) Outside stairways, fire escapes, vestibules, balconies, bay windows, eaves and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.  
 (a)-(j) See notes to [Section 19.00](#), on the pages following.

1 Intent & Authority	2 Definitions	3 Districts & Map	4 -17 Specific Districts	18 Land Use Matrix	19 Schedule of Regulations	20 Plots Plans & Site Plan Review
21 Special Land Uses	22 General Provisions	23 Nonconformities	24 General Exceptions	25 Zoning Board of Appeals	26 Supplemental Regulations	27 Administration

**Section 19.01 Notes to Section 19.00**

- a. If a municipal or community water system or public sewage treatment system serves the parcel, the minimum lot area may be reduced to 9,600 square feet and in R-1 minimum lot width may be reduced to 60 feet.
- b. For the purpose of applying yard regulations, multiple dwellings shall be considered as one building occupying one lot. When more than one multiple dwelling building occupies one lot, the two or more structures must be separated by at least 20 feet when end to end and fifty feet when face to face or back to back for structures up to two stories. These isolation distances shall be increased by eight feet for each story above the first two stories.
- c. Multiple family buildings, shall not exceed a density expressed in dwelling units per acre as follows:

**MULTIPLE FAMILY DENSITY SCHEDULES:**

Multiple Family Dwelling Density Table					
		WITHOUT PUBLIC SEWER		WITH PUBLIC SEWER	
		Net Density in Units per Acre		Net Density in Units Per Acre	
		7.5		12.0	

**DENSITY NOTES:**

Unless the construction plans include tying into an existing municipal or community sewer and/or water system, the on-site services to be constructed shall be designed so that central collection/distribution points are installed in anticipation of future tie-ins with a municipal type system. The local sewer/water authority having jurisdiction shall be consulted on matters of service tie-ins and pre-utility plans to minimize site disruption on future tie-in or hook-up projects.

- d. Side yards may be omitted for common walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through common walls if constructed to meet all codes. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.

For non-residential uses - driveways, sidewalks, parking areas, and loading spaces shall not occupy required side yards and/or rear yards unless the Planning Commission approves a plan for shared parking, shared loading spaces, or shared access.

- e. Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.
- f. Subject to a Public Hearing and the conditions outlined in this Note, the Zoning Board of Appeals may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:



- 1) It is determined that the added height will not significantly interfere with line-of-sight views.
  - 2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.
  - 3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces, shall not exceed fifty (50%) percent.
  - 4) If Applicable, the added height will keep or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.
  - 5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate to the Zoning Board of Appeals that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.
- g. On nonconforming lots measuring 60 feet in width, or less, one side yard setback may be reduced to five (5) feet for one detached accessory residential building.

On nonconforming lots measuring 100 feet or less in width, where two or more primary residences, or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet. (Front yard does not include waterfront.)

- h. Structural appurtenances (architectural features) shall be permitted to exceed the building height limitations provided the structures are not used for human occupancy and can only be accessed for maintenance purposes – as follows:
- 1) Ornamental – Superstructures, e.g. church steeples, public monuments, belfries, cupolas, domes, ornamental towers, and spires if the structural elements do not exceed twenty (20) percent of the gross roof area.
  - 2) Mechanical and Structural functions – Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, aerials, fire and hose towers, cooling towers, solar panels, utility screens, or farm silos.

i. For residential lots:

- 1) With less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.
  - 2) Unenclosed paved areas, patios, and other surfaced areas may occupy a required yard, if such surface is accessory to a residential use.
- j. On a lot located within the Critical Dune Area regulated by the State of Michigan, in a recorded plat, fronting a private road, the minimum front yard setback standard shall be fifteen (15) feet. The rear yard setback of such lot may be reduced to 15 feet if the lot abuts property within the same plat.

# Article 20

## Plot Plans & Site Plan Review

<u>Section</u>	<u>Name</u>	<u>Pg</u>	<u>Section</u>	<u>Name</u>	<u>Pg</u>
20.00	Plot Plan Requirements	20-1	20.07	Application Process	20-8
20.01	Uses Requiring Site Plan Approval	20-1	20.08	Performance Guarantees	20-9
20.02	Pre-Application Conference	20-2	20.09	Decision	20-10
20.03	Graphic Requirements for Site Plans	20-2	20.10	As Built Review	20-10
20.04	Impact Statement	20-4	20.11	Environmentally Sensitive Areas	20-10
20.05	Site Plan Review Standards	20-4	20.12	Deviation from Site Plan	20-11
20.06	Certification	20-8	20.13	Expiration of Site Plan	20-12

### Section 20.00 Plot Plan Requirements

Plot plans shall be submitted with all applications for Zoning Permits which do not require a site plan including one- and two-family dwellings and their associated accessory permitted or special land uses, and accessory buildings. The Plot Plan, drawn to scale, shall show the following:

- A. The shape, location and dimensions of the lot.
- B. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
- C. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- D. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed, including, but not limited to dimensions drawn to scale and certified survey.

Deviations from the approved Plot Plan may result in Enforcement action as outlined in [Section 27.08](#) of this Ordinance.

### Section 20.01 Uses Requiring Site Plan Approval

- A. Site plans are required for the following uses:
  1. All new uses and/or structures except (1) single-family or two-family dwelling units; and (2) accessory structures to single-family or two-family dwelling units.
  2. Expansion or renovation of an existing use, other than single-family or two-family dwelling units and accessory structures thereof, which increases the existing floor space more than twenty five (25) percent.
  3. Changes of use for an existing structure or lot except for the circumstances listed in [subsection B \(below\)](#).

4. Any Special Land Use (except Special Land Uses conducted within a one- or two-family dwelling unit).
  5. Planned Unit Developments.
  6. Any use requiring off-street parking, except single-family or two-family dwelling units.
  7. Nonresidential accessory structures over one hundred twenty (120) square feet (require submission of plot plan data only).
  8. Other uses as required by this Ordinance.
- B. The Zoning Administrator may waive site plan review requirements and, in the case of a use that would normally require Planning Commission approval, the stated review and approval procedures by the Planning Commission in any of the following cases where he or she determines that the submission of a site plan and adherence to the stated review and approval procedures by the Planning Commission would serve no useful purpose:
1. A change in principal use where such change would not result in significant structural alterations, an increase in impervious surface, additional off-street parking, access or other external site characteristics, or create a violation of this Ordinance.

## **Section 20.02 Pre-Application Conference**

Emmet County Staff shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

Except for Planned Unit Developments, this conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

## **Section 20.03 Graphic Requirements for Site Plans**

Site Plans submitted in compliance with this Ordinance shall be presented in terms of the following:

- A. A map scale that provides a large enough image to adequately display the proposed site development and pertinent details, and existing site features considering legibility and site area.

- B. Date, north point, scale, property dimensions, boundary lines, street names, and necessary property identification information.
- C. At least two full sized and fourteen reduced size (maximum 11"x17") copies of all maps or graphics. Digital format including data layers may be required, if considered necessary by the Zoning Administrator.
- D. All existing and all proposed structures with dimensions on the subject property, including signs and lighting, other structures within 100 feet of the subject property, ingress drives, roads and parking areas; and indicate the height of all structures.
- E. Setback lines and distances between structures and lot lines.
- F. All existing easements, utility lines, rights-of-way and other services, including well and septic locations, within and bordering the subject property.
- G. Topography information based on United States Geological Survey (USGS), or selected on-site elevations; if considered necessary by the Zoning Administrator. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of topography.
- H. Mapping of soil data as recognized in the United States Department of Agriculture, Soil Survey of Emmet County, Michigan (December 1973), or a more detailed analysis of soils, shall be included. Soil data and analysis should include engineering interpretations as to the suitability for the construction and maintenance of roads, building foundations, facilities for storing water, structures for controlling erosion, drainage systems, and systems for disposing of sewage. In addition, soil properties should include permeability, drainage, depth to water table, flooding hazard, depth to bedrock, and slope. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of the soils.
- I. An inventory of special site features that may be present including, but not necessarily limited to regulated wetlands as defined in law, critical dunes, bluff lines, wooded areas, water courses, and natural or man-made drains, as are known to the applicant or as may be suspected based on reviews of soil maps, aerial photographs, USGS Quadrangle maps, on-site inspections, and/or other competent sources.
- J. Location and height of all walls, fences and screen planting, including a general plan for the landscaping of the development and the method by which landscaping is to be accomplished and be maintained, if required.
- K. Description and location of any existing or proposed outdoor storage facilities (above ground and below ground storage).
- L. The location of snow storage areas.

- M. All site plans shall comply with the terms of [Part 91, Soil Erosion and Sedimentation Control, 1994 PA 451](#).
- N. Site plans shall be prepared to reflect any changes or modifications required for any applicable regulatory agencies' approvals.

## Section 20.04 Impact Statement

The statement shall address itself to the following as applicable to the type of use:

- A. A complete description of the proposed development including: areas of the site, the number of lots or units; and characteristics of the demographic impact including, but not limited to: density, age and income level of population to be served, seasonal/permanent and other related statistics.
- B. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.
- C. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

## Section 20.05 Site Plan Review Standards

The Planning Commission or the Zoning Administrator in consultation with two (2) designated Planning Commissioners shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards and considerations listed below unless the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property or the intent of the Ordinance.

### A. **Compliance with District Requirements**

The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the Zoning Ordinance, unless otherwise provided.

### B. **Vehicular and Pedestrian Circulation**

Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.

The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves the project area shall be capable of safely and effectively accommodating the traffic volume and pattern proposed by the project. Where possible, shared commercial access drives shall be encouraged.

1. Walkways from parking areas to building entrances

- a. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas. The walkways shall be located within the parking areas and shall be designed to provide access from these areas to the entrances of the building(s).
- b. The walkways shall be designed to separate people from moving vehicles.
- c. These walkways shall have a minimum width of five (5) feet with no car overhang or other obstruction.
- d. The walkways must be designed in accordance with the Michigan Barrier Free Design Standards.
- e. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.

**C. Emergency Vehicle Access**

All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

**D. Loading and Storage**

All loading and unloading areas and outside storage areas which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials of sufficient height to obscure the direct view from adjacent first floor elevations. The site plan shall provide for adequate storage space for the use therein.

**E. Snow Storage**

Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision, and parking area capacity.

**F. Buffers**

To provide reasonable visual and sound privacy, buffer techniques, screening, fences, walls, greenbelts, and landscaping may be required by the Planning Commission in

pursuance of the objectives of this Section and/or as a condition of the establishment of the proposed use.

#### **G. Drainage**

Storm water drainage plans shall address flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like.

The drainage plan shall indicate the manner in which surface drainage is to be disposed of. This may require making use of the existing ditches, natural watercourses, or constructing tributaries, but shall not result in storm water that exits the detention pond and/or property site at an erosive velocity. Additional hard surfaces proposed for a site must provide for detention and/or retention. The minimum requirements for retention and detention facilities are as follows: For sandy sites the volume of retention and/or detention shall be equal to the volume of 1 and ½" of water depth multiplied by the area of additional hard surface. For all sites other than sand, the volume of the retention and/or detention shall be equal to the volume generated from 2" of water depth multiplied by the area of additional hard surface. Both detention and retention facilities must be designed to assure that water is released within 72 hours. Detention facilities are to have a pipe no larger than 4" exiting the ponds at a grade no greater than 1%.

All storm water drainage plans shall be sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive the requirement, defer the requirement, or determine that a fully engineered storm drainage plan is not necessary, or can be deferred to a future date. Improvement guarantees shall be required, unless waived by the Planning Commission, for all storm water drainage plans in the form and amount acceptable by the Planning Commission to guarantee completion of the project in accordance with the conditions of the zoning permit. The performance guarantee will be released upon final inspection and approval by the Zoning Administrator, and receipt of sealed as built plans for storm water drainage.

Storm water retention basins designed to keep a fixed pool of water shall include one or more of the following safety features: 1) safety ledge(s) at least (10) feet wide at the basin perimeter, 2) vegetation surrounding the basin to discourage wading, or 3) fencing to prevent unauthorized access to basin.

Sandy, for the purpose of this Section, shall be defined as soils that meet a percolation rate consistent with the Emmet County Sanitary Code of 0 to 15 minutes.

#### **H. Spaces, Rights-Of-Way, Easements**

Spaces, rights-of-way, easements, and related site plan elements needed to serve the proposed use or development for such services as fire protection, sanitary sewers, water supplies, solid waste, storm drainage systems, and related.

#### **I. Waste Receptacles**



## Waste receptacle and enclosure requirements

1. Receptacles, including waste receptacles, waste compactors, and recycling bins shall be designed, constructed, and maintained according to the requirements of this Section.
2. Waste receptacles, including dumpsters or compactors, shall be required for all nonresidential uses unless interior facilities are provided. The requirement to provide a waste receptacle may be waived by the planning commission if the applicant provides documentation that the development will not necessitate a waste receptacle.
3. All outdoor waste receptacles shall be enclosed on three (3) sides and screened. The enclosure shall be constructed of brick or decorative concrete material, consistent with the building materials of the principal building.
4. The enclosure shall also include a gate, made of wood or other high quality material, as determined by the planning commission, on the fourth side. If the waste receptacle is a dumpster it must have an enclosing lid or cover.
5. The enclosure shall have a minimum height of six (6) feet or one (1) foot above the height of the waste receptacle, whichever is greater, but may not be less than four (4) feet in height.
6. Waste receptacles and enclosures shall be located in the rear yard, not closer than three (3) feet from the rear lot line, or non-required side yard, unless otherwise approved by the planning commission and shall be as far as practical, but in no case be less than twenty (20) feet, from any residential district. If practical, the back side of the waste receptacle enclosure should be placed against the building. In this circumstance the wall may act as one (1) side of the enclosure.
7. Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site.

## **J. Mechanical or Electrical Equipment**

### Mechanical or electrical equipment requirements.

1. Ground mounted mechanical or electrical equipment, such as blowers, ventilating fans, and air conditioning units are permitted only in side yards or in the rear yard.
2. Mechanical or electrical equipment shall be placed no closer than three (3) feet to any lot line.
3. Any ground, building, or roof mounted mechanical or electrical equipment or utilities, including water and gas meters, propane tanks, utility boxes, transformers,

elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment (HVAC), and other similar equipment, shall comply with the following standards:

- a. All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearance with the principal building.
- b. Roof mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface. All roof mounted mechanical units must be screened so they are not visible from ground level, even if not specifically addressed as part of site plan review.

## Section 20.06 Certification

For developments regarded to be complex or where considered appropriate for such special conditions as questionable soils, steep grades or other environmental features, complex street patterns, housing density or similar conditions; the final approval of a Site Plan may be withheld pending the signature and seal of a Michigan registered landscape architect, architect, surveyor, or engineer, as applicable to the design subject.

Where required, the owner or applicant shall provide such certification within forty-five (45) days of the completed construction.

## Section 20.07 Application Process

The Planning Commission or the Planning Director/Zoning Administrator in consultation with two (2) designated Planning Commissioners shall begin formal review of the Site Plan to make a determination to approve, approve with conditions, or deny the application.

### A. Administrative Review

1. **Qualifying Conditions:** A site plan review application qualifying for administrative review shall result in less than thirty thousand (30,000) square feet of new gross floor area, as defined in this ordinance to be added to the subject site. In addition, any site plan review application qualifying for administrative review shall meet either item a or b of the following, unless otherwise stated in this ordinance:
  - a. The subject property is zoned FF-1, FF-2, FR, R-1, R-2, RR, SR, B-1, B-2, B-3, I-1, or I-2 and the proposed principal use is permitted by-right in the established zoning district.
  - b. The subject property is zoned FF-1, FF-2, FR, R-1, R-2, RR, SR, B-1, B-2, B-3, I-1 or I-2 has an existing use and the proposal is for an accessory

structure.

2. **Party Responsible.** The Planning Director/Zoning Administrator, in consultation with two (2) designated Planning Commission members shall review and make a decision on a qualified site plan review application. The Planning Director/Zoning Administrator and the two designated Planning Commissioners, appointed by the Chair with majority approval of the Planning Commission, shall perform the duties of the Planning Commission prescribed in this article when conducting an administrative review. Two (2) other Planning Commissioners shall be appointed by the Chair with majority approval of the Planning Commission as alternate member one and alternate member two, for the advisory role, who shall serve in the event of the absence of one of the primary appointed Planning Commissioners. The Planning Director/Zoning Administrator has the discretion to add other agencies to the administrative review process depending on the complexity of the review.
  
3. **Administrative Review Procedures.** The Planning Director/Zoning Administrator and the Planning Commissioners designated to participate in the administrative review process shall begin formal review of the Site Plan within ten (10) business days of receiving a complete application, which shall include the application form, property owner authorization, impact statement, applicable fees, and site plan that meets the requirements of section 20.03. The Planning Director/Zoning Administrator shall make the determination if an application is complete. No part of this subsection shall prohibit the Planning Director/Zoning Administrator, Planning Commission members involved in the administrative review process, or applicant from requesting that the site plan be submitted to the Planning Commission for review and approval. The Planning Director/Zoning Administrator shall provide a monthly report to the Planning Commission regarding site plans that have been administratively reviewed.

**B. Planning Commission Review**

All other uses requiring a site plan, including planned unit developments, and any enforcement actions shall be reviewed and decided upon by the Planning Commission. The Planning Commission shall begin formal review of the Site Plan at its next regularly scheduled meeting provided a complete application is submitted at least twenty-eight (28) days before the meeting. A complete site plan shall include the application form, property owner authorization, Site Plan which meets the requirements of Section 20.03, Impact Statement, Site Plan Review Checklist and applicable fees.

## **Section 20.08 Performance Guarantees**

A performance guarantee in the form of a bond, cash, certified check, or irrevocable letter of credit may be required for all commercial projects and for all other projects with unusual or challenging site conditions determined by the Planning Commission. The performance guarantee shall be in the amount acceptable to the Planning Commission to guarantee completion of the project in accordance with the conditions of the permit. The performance guarantee will be released upon final inspection and approval by the Zoning Administrator or Enforcement Officer. Performance

guarantees will not be released if there are monies owed to the enforcing agency.

### **Section 20.09 Decision**

Following the submittal of a Site Plan in accordance with the requirements of this Section, and any other rules governing Site Plan submittals in Emmet County, the Planning Commission shall approve, conditionally approve or reject the proposed development, with reasons stipulated.

No land use, zoning compliance, and/or building permits shall be issued except for uses that are in full compliance with the provisions and conditions specified in the Site Plan Review process. If no action is taken to establish a use and/or construct a building pursuant to an approved site plan, or an approved site plan amendment, such approval shall lapse and cease to be in effect after twenty-four (24) months from the date of approval.

### **Section 20.10 As-Built Review**

An as-built site plan shall be submitted within 12 months of completion of the project. A site plan based upon as built condition shall be submitted within 24 months of permit issuance. If as built is substantially different from the design site plan, as determined by the Zoning Administrator, the permit holder will be required to remedy such discrepancies.

### **Section 20.11 Environmentally Sensitive Areas**

The protection of areas of environmental concern, such as wetlands, high risk erosion, designated critical dune areas, floodplains, or steep slope areas, must be considered in conjunction with development and such areas must be developed in conformance with the following regulations of state and county agencies as applicable:

- A. Dune Formations and High Risk Erosion Areas are sensitive sandy and clay areas under protection of the [Michigan Natural Resources & Environmental Protection Act, 1994 PA 451, Parts 353 and 323](#) respectively (formerly, the Sand Dunes Protection Act, 1976 PA 222, as amended by 1989 PA 146 and 1989 PA 147, and the Shorelands Protection and Management Act, 1970 PA 245, as amended). The general areas subject to these regulations are indicated on the Dune Overlay District Map.
- B. Wetlands are defined by degree of soil wetness, generally including those soils classified by the [Michigan Natural Resources & Environmental Protection Act, 1994 PA 451, Part 303, Section MCL 324.30301 et seq.](#) (formerly, the Goemere-Anderson Wetlands Act , 1979 PA 203) as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environmental Quality.
- C. Sensitive Riverine Areas are defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land may require a soil erosion and sedimentation control permit under [Part 91, Section MCL 324.9101 et seq. of the Michigan Natural](#)

[Resources & Environmental Protection Act, 1994 PA 451](#), (formerly, 1972 PA 346). See also e. below.

- D. Inland Lakes are sensitive areas around the water body, including the watershed, which could be subject to flooding, erosion, or pollution per [Part 301, Section MCL 324.30101 et seq. of the Michigan Natural Resources & Environmental Protection Act, 1994 PA 451](#), (formerly, 1966 PA 345).
- E. Flood Plain Areas are low areas adjacent to inland lakes and streams subject to flooding according to the one hundred (100) year flood hazard boundary map as administered by the Federal Emergency Management Agency (FEMA) or an Intermediate Regional Flood map prepared by the Army Corps of Engineers. A structure proposed within a floodplain is not permitted to be erected until a permit from the Michigan Department of Environmental Quality is obtained pursuant to [Part 31 of the Michigan Natural Resource & Environmental Protection Act, 1994 PA 451](#).
- F. Shoreline Bluff Protection Zone. See [Section 22.10](#) of this Ordinance.

## Section 20.12 Deviation from Site Plan

- A. The Zoning Administrator may authorize insignificant deviations from an approved site plan or from Zoning Permits. A deviation is insignificant if it has no discernible impact on the site, neighboring properties, the general public, or those intended to occupy or use the proposed development. All requests for modifications of an approved site plan or permit issued under the provisions of this Ordinance shall be in writing on a form provided by the Zoning Administrator. The Zoning Administrator shall keep a record of any authorized deviation.
- B. Minor site design modifications or changes in permits (including approved site plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor modifications are those which will have no foreseeable effect or discernible impact to natural features on the property, beyond the property boundary such as minor changes in the location of buildings or structures, the alignment of utilities, and the alignment of walkways, interior roadways and parking areas. Minor changes for good cause may be authorized provided no such changes shall increase the size or height of structures, increase the number or type of dwelling units or square feet of nonresidential uses, add another land use, reduce the efficiency or number of public facilities serving the development, reduce usable or other required open space, or encroach on or impair air, water, other natural resources and natural features. Minor modifications or changes shall not violate a requirement of this Ordinance, or involve a modification or change that otherwise would require a zoning variance from the ZBA. The Zoning Administrator shall keep a record of all minor design modifications or changes granted and report each modification as part of the annual report, except that for the first twelve months of employment, the Zoning Administrator must report each modification approved to the Planning Commission at the monthly meeting.

- C. Any modification, change, or deviation not qualifying as a minor or insignificant deviation is considered to be a major modification, change, deviation or amendment and must be approved by the permit issuing authority following the same procedure required for the original permit or approval.
- D. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Planning Commission or Zoning Board of Appeals, new or modified conditions may be imposed, but the applicant keeps the right to reject such additional conditions by withdrawing his request for a modification, change, deviation or an amendment and may then proceed in accordance with the previously issued permit.
- E. An applicant requesting approval of a request for an insignificant deviation or a minor design modification or change shall submit a written request to the Zoning Administrator identifying the requested changes and stating the reasons for making their quest. Action on all changes shall be given in writing, and may be appealed by an affected person to the Zoning Board of Appeals pursuant to [Article 25](#).

### **Section 20.13 Expiration of Site Plan**

- A. The site plan shall expire unless construction of an approved site plan improvement has begun within two (2) years of approval.
- B. Any re-submittal of a site plan due to expiration shall be processed as a new request with new fees.

# Article 21

## Special Land Uses

<u>Section</u>	<u>Name</u>	<u>Pg</u>
21.00	Intent	21-1
21.01	Special Land Use Review Procedures	21-1
21.02	Special Land Use Review Standards	21-2
21.03	Special Land Use Permit Termination	21-3
21.04	Modification of a Special Land Use Permit	21-4

### Section 21.00 Intent

Special Land Use permits are required for proposed activities which are essentially compatible with other uses, or activities permitted in a zoning district, but which possess characteristics or locational qualities which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this Ordinance. Special Land Uses shall be subject to the general provisions and supplemental site development standards of this Ordinance as well as to the provisions of the zoning district where it is located. Each use shall be considered on an individual basis.

### Section 21.01 Special Land Use Review Procedures

#### 21.01.1 Authority to Approve Uses

- A. Unless otherwise provided for in this Ordinance, the Planning Commission is the body authorized to approve Special Land Uses. The Commission is authorized and directed to investigate the matter to conduct a Hearing where required, to make a determination, to either grant or refuse the approval and to do all things reasonably necessary to the making of the investigation and determination, subject to the provisions of this Ordinance.
  
- B. The Zoning Administrator may approve Special Land Uses only where stated in this Ordinance.

#### 21.01.2 Hearing: Notice

Before conducting a Public Hearing, public notice, stating the time and place of Hearing, shall be published, at least fifteen (15) days before the Hearing date, in a newspaper of general circulation in the County; and written notices, stating the time and place of Hearing, shall be sent by mail at least fifteen (15) days before the Hearing date, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet in accordance with [2006 PA 110](#).

#### 21.01.3 Surveys and Plans

Where the Planning Commission is empowered to approve certain uses of premises under the provisions of this Ordinance, or in cases where the Commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by the Commission for the proper evaluation and consideration of the matter.

#### **21.01.4 Hearing: Matters to be Considered**

In making any recommendations or approval authorized by the provisions of the Ordinance, the Planning Commission shall consider:

- A. Whether or not there has been compliance with the provisions of this Ordinance.
- B. Whether or not there is proper setback, parking facilities, loading space, percentage of lot coverage, greenbelts, size of buildings, lot area and other conditions required by this Ordinance.
- C. Whether or not the use involved is in accord with the spirit and purposes of this Ordinance.
- D. Whether or not the use involved would constitute a public or private nuisance.
- E. Whether or not the use involved would disturb or interfere with the natural or planned development of the surrounding neighborhood.

### **Section 21.02 Special Land Use Review Standards**

In reviewing all requests for Special Land Uses the Planning Commission or Zoning Administrator shall require compliance with any of the following as may reasonably apply to the particular use under consideration (See also [Article 20](#) and [Section 21.01](#)):

- A. Non-detrimental impact upon the surrounding uses in the District, particularly as related to traffic generating potential, servicing by trucks, hours of operation and pedestrian traffic. A traffic impact study may be required by the Planning Commission
- B. A large enough size of the parcel or project site to accommodate the use, its future expansion, customary accessory uses and on-site services (such as but not limited to sewage disposal and water supply).
- C. Impact of the proposed use on the quality and quantity of water resources, domestic water supplies and capacity to absorb the anticipated sewage disposal demand.
- D. Entrance drives to the use and off-street parking areas shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District. Road agency review shall be required.
- E. The use does not conflict with the principles, goals, or objectives of the County Comprehensive Plan.



- F. Suitability of access to the use, assuring that minor residential streets are not used to serve uses that have larger area-wide patronage.
- G. Allowance is made for vehicles to enter and exit the use safely and no visibility impediments to drivers are created by signs, buildings, land uses, plantings, etc.
- H. Open spaces and common areas, when offered by an applicant as an integral element of a Planned Unit Development or Special Land Use Project, may be required to be formally assured by one or more of the following instruments: Scenic Easement; Conservation Easement; Deed Restriction; or similar dedication mechanism.

The open space dedication instrument shall name the State, the County, a Local Unit of Government, or a land conservation/conservancy organization, as a party to the instrument, as determined to be most acceptable for the particular property and agency involved.

### **Section 21.03 Special Land Use Permit Termination**

A special land use permit shall be valid for as long as the approved permitted use continues in accordance with the terms stated in the approved permit. A special land use permit shall expire or be discontinued by one or more of the following conditions:

- A. When a special use replaces or supersedes the original special use on a property, provided however, that the Planning Commission may approve two or more special uses as appropriate to occupy a site simultaneously.
- B. When the original special use is replaced by a Principal Permitted Use, and the applicant does not include the special use on his site plan.
- C. When the applicant requests the rescinding or removal of the Special Land Use, and a hearing is held to document the planned rescinding.
- D. The Planning Commission, by public hearing may declare a special land use to be null and void based on evidence of vacating, abandoning, or moving to another location. The Planning Commission may use the following types of physical evidence to determine that the owner's intent is to no longer continue the special use:
  1. Utilities have been disconnected for over 24 months,
  2. If there were signs, the signs have been removed or have fallen into disrepair,
  3. Fixtures within and outside the building have been removed,
  4. The property falls into disrepair,
  5. U.S. Mail delivery has been ended or mail is forwarded to another address,
  6. The classification of the property for tax purposes has been changed to reflect another use, and
  7. Other similar changes to the Special Land Use.

Action to find a Special Use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:

1. Property held in Probate;
  2. Insurance settlement in dispute; or
  3. Criminal investigation; or
  4. Other similar legal land dispute.
- E. When, after 24 months from the date of a signed permit, or the specified completion date in the signed permit, the specific terms of the Special Land Use Permit have been violated and are not in compliance. Notice of the expiration shall be given to the applicant in writing.

The general standards and regulations of this Section are applicable to all uses authorized by Special Land Use Permit in this Ordinance, except PUD Districts which have integral expiration terms.

#### **Section 21.04 Modification of a Special Land Use Permit**

Modifications to an approved Special Land Use permit shall be subject to the provision of [Section 20.12](#).

# Article 22

## General Provisions

Section	Name	Pg	Section	Name	Pg
22.00	General	22-1	22.08	Land Development Standards	22-31
22.01	Accessory Buildings	22-3	22.09	Reserved (blank)	22-35
22.02	Parking Requirements	22-6	22.10	Shoreline Bluff Protection	22-35
22.03	Other Parking Related Requirements	22-12	22.11	Minimum Waterfront Setback	22-42
22.04	Fences, Greenbelts, and Walls	22-13	22.12	Yard Sales	22-43
22.05	Outdoor Speakers and Sound Devices	22-18	22.13	Subdivision & Site Unit Condominium Open Space	22-44
22.06	Outdoor Lighting	22-18	22.14	Access Management Overlay	22-45
22.07	Signs and Billboards	22-22			

### Section 22.00 General

#### 22.00.1 Effects of Zoning

- A. Zoning affects every structure and use and extends vertically. The provisions of this Article shall apply to all districts, except as noted. Except as specified, each building, structure or premises shall be used or occupied, and each building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, in conformity with the regulations specified for the zoning district in which it is located. The applicable zoning permit or building permit shall be obtained.
- B. If any lawful use, activity, building or structure exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the Zoning District in which it is located, such use, activity, building or structure shall be considered a legal nonconforming use and shall be allowed to remain as such, including the completion of construction, providing the construction does not require more than two (2) years from the effective date of this Ordinance for completion.
- C. No lot area and no yard, court, parking area or other required space shall be so divided, altered, reduced or diminished as to make the area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by expansion or acquisition of public rights-of-way for streets, roads or highways.
- D. In case any building or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance.
- E. If construction of a building has lawfully started before adoption of this Ordinance, nothing in this Ordinance shall be considered to require any change in the planned or designed use of any such building.

**22.00.2 Application of Regulations**

- A. All buildings, structures or land may be used, constructed, altered or occupied, only when in conformity with all of the regulations specified for the district in which it is located.
- B. No building or other structure shall be altered:
  - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District or to provide less space per dwelling unit than is specified for the Zoning District in which such building is located.
  - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
  - 3. To exceed the height limitations or to occupy a greater percentage of lot area than is specified for the Zoning District in which such building is located.
- C. No yard, lot, parking area, or other required space existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth except where such reduction has been brought about by expansion or acquisition of public rights-of-way for streets, roads or highways. If a required area is already less than the minimum required under this Ordinance, the area or dimension shall not be further divided or reduced. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

**22.00.3 Zoning Lots, Zoning Lot Occupancy, and Illegal Dwellings**

**A. Zoning Lots**

- 1. **New Lots to be Buildable.** All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.
- 2. No new lots shall be created which do not meet the minimum lot size regulations of this Ordinance.

**B. Zoning Lot Occupancy**

No single-family detached residential structure shall be erected upon a lot with another single family detached residential structure unless otherwise provided in this Ordinance. In addition, every building erected or structurally altered to provide dwelling units shall be located on a lot or a building site as defined.

**C. Illegal Dwellings**

The use of any portion of a basement or partially completed structure for dwelling purposes shall not be permitted unless a temporary certificate of occupancy has been issued.

Garages, accessory buildings, motor homes, recreational vehicles, recreational units, trucks, buses, or other such portable structures shall not be occupied for dwelling purposes except as otherwise allowed in this Ordinance.

**22.00.4 Restoration of Unsafe Buildings/Barrier-Free Modification**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Zoning Administrator, Building Inspector, or Public Health Inspector. Nothing in this Ordinance shall prevent the unlimited modification of a building only as may be necessary to comply with barrier-free requirements and the Americans with Disabilities Act.

**22.00.5 Repair and Maintenance**

Nothing in this Ordinance shall be considered to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Nothing in this Ordinance shall prevent compliance with the provisions of the [1972 PA 230, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.](#), relative to the maintenance of buildings or structures; provided, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed sixty (60) percent of the replacement value of such building at the time such work is done; and provided, further, there shall be no change of use which would expand the nonconformity of such building at the time such work is begun; and provided, further, there shall be no change of use of the building or part thereof.

**22.00.6 Access**

Every principal structure erected or moved after the effective date of this Ordinance, shall be located on a lot adjacent to a public street, easement which provides access to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing fire protection, and required off street parking.

**Section 22.01 Accessory Buildings**

**22.01.1 Accessory Residential Buildings Setbacks and Floor Areas – Reviewed by Zoning Administrator unless otherwise indicated**

**A. Accessory Residential Buildings Setbacks and Floor Areas**

1. Customary residential accessory buildings are permitted by right provided they are incidental to and customarily found in connection with a main residential use of the property on which it is located.
2. Accessory buildings 200 sq. ft. or less are authorized without a permit on a lot with or without a main use if they meet the applicable front yard setback standard, and

that they are placed a minimum of five (5) feet from the side lot line(s) and ten (10) feet from the rear lot line.

3. Accessory residential buildings greater than 200 sq. ft. shall be subject to the side and front setback requirements as regulated by District but one (1) accessory building with 600 sq. ft. or less floor area may meet a minimum setback of ten (10) feet from the rear lot line. This setback provision shall not apply to lots fronting on a lake, river or stream.
4. Residential accessory building sizes shall be regulated as follows:

Zoning District	Location on the Property	Maximum Ground Floor Area*
R-1, R-2, RR, and SR	Front, Side, or Rear Yard	1,200 Sq. Feet
FF-1, FF-2, and FR	Front or Side Yard	1,200 Sq. Feet
FF-1, FF-2, and FR	Rear Yard**	2,400 Sq. Feet

\*On a corner lot, i.e. with two front yards, the Zoning Administrator may approve one yard to qualify for an accessory building that meets the size standards for a rear yard accessory building.  
 \*\*For the purpose of determining the Rear Yard for placement of an accessory building: the rear yard is an area behind the back wall of the main use, or is at a point 250 ft. or farther from the road right-of-way line.

5. The front or side yard accessory building size may be increased to the maximum size as allowable in the rear yard in FF-1 and FF-2 Districts, provided all of the following standards can be met, as determined by the Zoning Administrator:
  - a. The lot is a minimum of five (5) acres in lot area and at least 300 feet of width.
  - b. The structure is located in such a manner as to attain natural screening by existing vegetation or topography to at least partially screen the use from the view of adjoining properties and/or public roads.
  - c. The structure meets all side, rear and waterfront setback standards, as applicable, of the zoning district.
  - d. The structure is sited a minimum of 100' from a private or public road right-of-way.
  - e. The applicant shall record an affidavit with the Register of Deeds stating the proposed use of the building.

Only one such structure may be approved by the Zoning Administrator under these provisions.

6. Accessory Residential Buildings in all Residential Districts may be attached or detached. Detached accessory buildings shall be limited as follows:

- a. One (1) detached accessory residential building up to the maximum allowable size per parcel of five (5) acres or less.
  - b. For each additional five (5) acres of parcel area, above five (5) acres, one (1) additional accessory building up to the maximum allowed floor area may be permitted, but not more than four (4) such buildings.
  - c. In addition to the standards listed in 1) and 2) above, one (1) detached accessory building not to exceed 200 sq. ft. in ground floor area, may be permitted for such use as tool shed, wood storage, equipment housing, or animal shelter.
7. Existing accessory residential buildings shall be considered to be conforming buildings for the purposes of this Section.

**22.01.2 Entranceway Gatehouses and Other Entrance Features**

Structures marking entrances to subdivisions, condominiums, planned unit developments, and similar projects whether residential or non-residential are permitted in the front yard setback, and includes, walls, columns, gates, gatehouses and similar entrance markers. Gate houses shall meet the front yard setback standard of the Zoning District. No such structures shall constitute a visual safety hazard or impediment for persons entering, exiting, or passing by the entryway on adjacent streets (e.g. corner clearance).

**22.01.3 Exemptions**

The following uses of accessory buildings are exempt from size regulations under this Section.

- A. Accessory buildings when legally constructed in connection with an approved main use that is other than residential.
- B. Farm Use Buildings, as defined in [Article 2 - Definitions](#). In the case of farm use buildings, a plot plan submitted to the Zoning Administrator illustrating compliance with zoning setback requirements will suffice for the zoning permit.
- C. Accessory garages and carports in multiple family housing developments.

**22.01.4 Exceptions**

Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by strict compliance with the provisions of this [Section 22.01](#) or [Section 26.13](#), the Planning Commission may waive or modify said standards subject to a Public Hearing and approval of the Site Plan by the Planning Commission and notifications to adjoining property owners as required for a Special Land Use.

**Section 22.02 Parking Requirements**

**22.02.1 General Parking Requirements**

Parking shall be reviewed during site plan review by the Planning Commission except for residential or farm use. There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces.

- A. Off-street parking for other than residential uses shall be either on the same lot or on adjacent property within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- B. Any area once designated as required off-street parking shall not be changed to any other use unless equal facilities are provided elsewhere.
- C. In the instance of dual function of off-street parking spaces where the off-street parking is located on the same lot or an off-street parking lot connected by a common drive the property owner(s) at their discretion may utilize the Shared Parking standards defined in [Section 22.02.3](#).
- D. The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited on required off-street parking lots.
- E. Although single family residential uses are not subject to site plan review they must adhere to the parking space requirement enumerated in the [Section 22.02.2](#).
- F. Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport or combination thereof.
- G. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Zoning Administrator considers as being similar. The zoning administrator's decision may be appealed to the zoning board of appeals. The Zoning Administrator may choose to ask the zoning board of appeals to make a determination of what use is similar.
- H. For the purpose of computing the number of parking spaces required, the definition of **FLOOR AREA, GROSS**, also referred to as gross floor area, shall govern.
- I. Buildings which contain multiple uses are required to compute the required parking for each of the uses separately. These amounts when aggregated together shall comprise the total off-street parking required.
- J. The deferral of off-street parking spaces may be allowable on premises that at the time of submittal, the applicant does not know his future parking demands and he may, therefore,

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wish to determine actual parking needs by experience and research before investing in physical improvements. In allowing a deferral the Planning Commission does not waive its rights to require the development of the full number of spaces at a future time.

K. The number of off-street parking spaces required by this Ordinance shall be governed within the range specified by the minimum and maximum parking requirements defined in **Section 22.02.2**, however, the Planning Commission, subject to approval of the Site Plan, may defer until a future time the construction of the full number of parking spaces based on the following:

1. The proprietor/owner can demonstrate to the Planning Commission that providing 100% of the required parking would not be necessary to serve the level of the property use.
2. The land proposed for the full amount of parking would better serve the community or the use as landscaped yard or other on-site open space use.

At such time as the intensity of vehicle access to the use increases and/or the Planning Commission determines that the deferred parking spaces are needed to prevent congestion on adjacent streets, increase safety, and/or maintain patron convenience, the Planning Commission shall order that all or part of the deferred parking space shall be constructed at the earliest possible time.

Based on any determined construction limitations, the Planning Commission and the applicant shall establish and agree on a construction timetable within which any deferred off-street parking spaces will be completed. The construction schedule shall consider time limitations caused by weather/climate conditions; soils, land area, and site conditions; and the nature of the construction and steps involved in construction.

**22.02.2 Number of Parking Spaces Required**

The minimum number of off-street parking spaces by use shall be in accordance with the following schedule. The maximum number of off-street parking spaces shall not exceed 10% of the required minimum.

A. Residential Use	Number of Minimum Parking Spaces Per Unit by Measure
<b>1. Single Family Dwelling</b>	Two (2) per Dwelling and exempt from the maximum requirement.
<b>2. Multiple Family Dwelling.</b>	Two (2) per Dwelling.
<b>3. Manufactured Home Parks</b>	Two (2) per each Manufactured Home.
<b>4. Housing for the Elderly</b>	One (1) for each three (3) Dwelling Units.
<b>5. Rooming Houses</b>	One (1) for each two (2) beds.

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<b>6. Bed and Breakfast and Tourist Homes</b>	One (1) space per bed and breakfast guest unit, plus required parking spaces for resident family and One (1) per employee.
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<b>B. Public and Quasi-Public Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
<b>1. Studios specializing in the instruction of dance, physical exercise and</b>	One (1) for each two hundred (200) square feet of gross floor area.
<b>2. Churches, Temples, theaters, stadiums, auditoriums and assembly</b>	One (1) for each three seats in the main unit, plus one for each two (2) employees.
<b>3. Elementary and junior high schools</b>	One (1) for each teacher, employee and administrator – adequate off-street bussing and parent drop-off/pick-up area.
<b>4. High schools, colleges and universities</b>	One (1) for each teacher, employee, administrator and one (1) for each ten (10) students.
<b>5. Private clubs or lodges</b>	One (1) for each four (4) members or one (1) for each one hundred and fifty (150) square feet of gross floor area whichever is less.
<b>6. Regulation golf course</b>	Six (6) per green.
<b>7. Par “3” or mini golf</b>	Four (4) for each golf hole.

<b>C. Commercial &amp; Business Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
<b>1. Bank and ATM Kiosks</b>	One (1) for each three hundred (300) square feet of gross floor area. Three (3) stacking spaces are required for each service bay, window or pedestal.
<b>2. Professional and medical offices</b>	One (1) for each two hundred (200) square feet of gross floor area in the waiting room, plus one (1) for each examining room or dental chair.
<b>3. Retail stores except as otherwise specified</b>	Minimum: One (1) for each two hundred (200) square feet of gross floor area.
<b>4. Furniture and appliance, hardware, household equipment, repair shops, shoe repair, showroom of a plumber, decorator, electrician or similar trade and other similar use</b>	One (1) for each eight hundred (800) square feet of gross floor area, plus one (1) for each two (2) employees.

<p><b>5. Planned commercial or shopping center by sq. ft. of floor area:</b>  <b>a. 1 to 15,000 sq. ft.</b>   <b>b. 15,001 to 45,000 sq. ft.</b>   <b>c. 45,001 sq. ft. and larger</b></p>	<p>Spaces per square feet of gross floor area:   One (1) space per two hundred (200) square feet.   One (1) space per two hundred-fifty (250) square feet.  One (1) space per three hundred (300) square feet.</p>
<p><b>6. Beauty parlor, barber shop or salon</b></p>	<p>Three (3) for each service chair.</p>
<p><b>7. Laundromat</b></p>	<p>One (1) for each three (3) wash and dry units.</p>
<p><b>8. Mortuary establishments</b></p>	<p>Three (3) for each one hundred (100) square feet of gross floor area.</p>
<p><b>9. Motor vehicle sales and service establishments</b></p>	<p>One (1) for each two hundred (200) square feet of gross floor area of sales room, plus one (1) for each auto service stall in the service room.</p>
<p><b>10. Marine Sales and Service Centers, including RV's</b></p>	<p>One (1) space for each employee, and one (1) for each service stall. Add one (1) space for each 200 square feet of showroom, but not less than five (5) spaces with or without a showroom.</p>
<p><b>11. Pool hall, private club, dance hall or places for the consumption of food or beverages</b></p>	<p>One (1) for each two (2) persons of the legal capacity as established by health, fire or building officials.</p>
<p><b>12. Restaurants (sit down) and establishments for on premises sale and consumption of food, refreshments and/or beverages</b></p>	<p>One (1) per one hundred-fifty (150) square feet for first 2,500 square feet, plus One (1) per one hundred (100) square feet over 2,500 square feet including area designated for outdoor dining.</p>
<p><b>13. Food consumption services or drive-in, drive-thru or take out</b></p>	<p>Use seating capacity standards as applicable for sit-down restaurants. A minimum of five (5) stacking spaces shall be provided for each service window where a drive-thru operation is present.</p>
<p><b>14. Bowling alleys</b></p>	<p>Five (5) for each bowling lane.</p>
<p><b>15. Hospitals</b></p>	<p>One (1) for each one (1) bed.</p>
<p><b>16. Hotels and motels</b></p>	<p>One (1) for each sleeping room, plus one (1) for each 150 square feet of meeting area and restaurant space.</p>
<p><b>17. Auto service stations</b></p>	<p>Two (2) for each service rack or pit: and one (1) for each (1) single or dual gas pump, but not less than six (6) spaces.</p>
<p><b>18. Gas station with convenience store</b></p>	<p>One (1) for each 250 square feet of gross floor area.</p>
<p><b>19. Auto Wash or drive through service stations other than fueling stations</b></p>	<p>One (1) for each employee and five (5) stacking spaces for each service bay.</p>

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<b>20. Wineries, Distilleries, and Microbreweries</b>	One (1) for each 300 square feet of gross floor area for tasting rooms. One (1) for each 300 square feet of gross floor area for office and administrative functions. One (1) space per fifteen hundred (1,500) square feet of promotional event parking.
<b>21. Mini-Warehousing and Storage Unit Rental</b>	One (1) space for each eight hundred (800) sq. ft. of gross floor area.

D. Industrial and Wholesale Use	Number of Minimum Parking Spaces Per Unit by Measure
<b>1. Industrial or research establishments</b>	Five (5), plus one (1) for every employee in the largest working shift.
<b>2. Wholesale establishments</b>	Five (5), plus one (1) for every employee in the largest working shift or one (1) for every two thousand (2,000) square feet of gross floor area, whichever is greater.
<b>3. Warehouse</b>	Five (5) spaces, plus one (1) for each employee over three (3) employees, or one (1) for every 2,000 square feet of gross floor area, whichever is greater.

**22.02.3 Shared Parking**

Shared parking, or Effective Parking, is allowed based on the following calculation which is based on the general type of land use or function of the property. The Shared Parking Factor for two land use functions, when divided into the sum of the two amounts as listed on the Required Parking table below produces the Effective Parking needed. For example, residential parking is calculated at 12 spaces and retail parking is calculated at 32. Summed they equal 44. Using the Shared Parking Table this amount is divided by 1.2 to derive an Effective Parking amount of 36.6 or 37 parking spaces.

Function	Function			
	Residential	Lodging	Office	Retail/Restaurant
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail/Restaurant	1.2	1.3	1.2	1.0

**22.2.4 Parking Space Dimensions**

All required off-street parking spaces shall meet the following dimensional standards:

Parking Pattern in Degrees	Maneuvering Lane Width	Parking Space Width	Parking Space Length
<b>0 (Parallel)</b>	12 feet	8 feet	23 feet

<b>30 to 53</b>	12 feet	9 feet	20 feet
<b>54 to 74</b>	15 feet	9 feet	20 feet
<b>75 to 90</b>	20 feet	10 feet	20 feet*
* May include a maximum two (2) foot unobstructed vehicle parking area at the front of the parking space to account for normal vehicle overhang.			

**22.02.5 Vehicle Stacking Space**

Stacking spaces required for vehicles waiting to access service windows, pumps, pedestals or other service facilities shall be dimensioned to be twenty (20) feet by ten (10) feet per space, but shall not include the space vehicles actually use at the time of service. Where a use provides a drive-thru or similar service, but is not within the use categories for which specific standards are provided, the Planning Commission may require a minimum number of stacking spaces which are equivalent to the number required for a use which the Commission determines to be most similar.

**22.02.6 Bicycle Parking**

- A. Scope of Regulations: Bicycle parking facilities, which include bicycle parking spaces and access aisles, shall be provided as required for all new structures and uses established or for changes in use as the effective date of this provision.
- B. Size: Required bicycle parking spaces shall be at two (2) feet by six (6) feet. An access aisle of at least five (5) feet and shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least six (6) feet.
- C. Design and Maintenance: Accessory off-street parking for bicycle parking shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the bicycle may be locked by the user. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices. All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location. The surfacing of such facilities shall be designed and maintained to be mud and dust free.
- D. Location: Bicycle parking facilities shall be located in a clearly designated safe and convenient location. The design and location of such facility shall be harmonious with the surrounding environment. The facility location shall be at least as convenient as the majority of automobile parking spaces provided.
- E. Schedule of Required Off-Street Bicycle Parking Facilities: Bicycle parking facility spaces shall be provided in adequate number as determined by the Zoning Administrator. In making the determination, the Zoning Administrator shall consider when appropriate, the number of dwelling units or lodging rooms, the number of employees, and the number of automobile parking spaces in accordance with the following guidelines:

Land Use	Bike Space
Bed & Breakfast and Tourist Homes	One (1) per Three (3) lodging rooms
Hotels and Motels	One (1) per Twenty (20) employees and One (1) per Ten (10) rental rooms
Places of assembly, recreation, entertainment, and amusement	One (1) per Ten (10) automobile parking places
Commercial Establishments	One (1) per Ten (10) automobile parking places; up to a maximum of Twenty (20) bicycle parking spaces.

F. Reduction of Off-Street Automobile Parking:

1. Establishments Not Located Along a Designated Public Pathway: For each One (1) bicycle parking space the automobile parking can be reduced by One (1) parking space.
2. Establishments Located on a Designated Public Pathway: For each One (1) bicycle parking space the automobile parking can be reduced by Two (2) parking spaces.
3. Establishments that Connect to a Designated Public Pathway: For each One (1) bicycle parking space the automobile parking can be reduced by Two (2) parking spaces.

**Section 22.03 Other Parking Related Requirements**

**22.03.1 Off-Street Loading and Unloading**

On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, space for standing, loading spaces and unloading spaces in order to avoid undue interference with public use of dedicated streets or alleys.

Applicants must demonstrate that loading and unloading can be accomplished without using the abutting road right-of-way for maneuvering space, or required parking spaces. A registered professional engineer's certification of a loading/unloading plan may be required to assure compliance.

**22.03.2 Snow Storage**

Off-street parking lots three thousand (3,000) square feet or larger, provision shall be made for on-site snow storage in addition to the required parking lot; as follows:

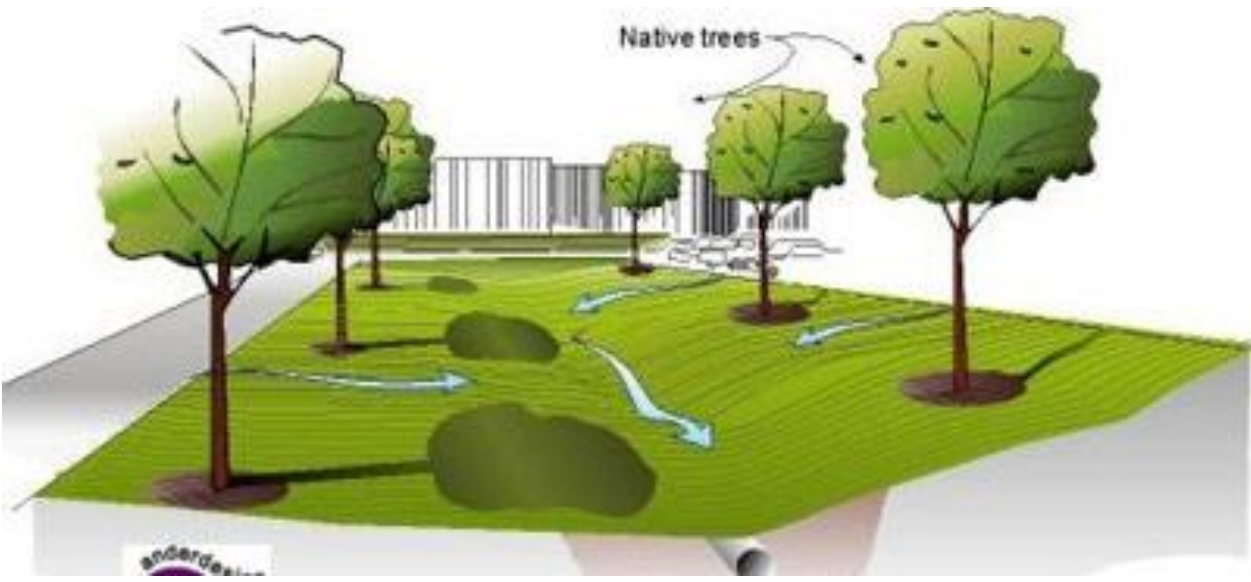
- A. Snow storage shall be provided in the ratio of ten (10) square feet of storage area per one hundred (100) square feet of parking lot surface area.
- B. Snow storage areas shall be located so they do not interfere with clear visibility of traffic on internal roads or drives, adjacent streets, and highways.



C. Snow storage areas shall not interfere with emergency vehicle access.

**22.03.3 Low Impact Development Techniques**

In addition to complying with [Section 20.05 G.](#); Drainage, parking lots shall incorporate low impact development (LID) water quality technologies. Low impact development water quality technologies shall include, but are not limited to, rain gardens, rooftop gardens, vegetated swales, cisterns, permeable pavers, porous pavement, and filtered stormwater structures will be required on site as a component of the overall stormwater plan. The Planning Commission has the authority to review, approve or deny the type of LID that will be used as part of the approval process.



**22.03.3 Performance Guarantees**

A performance guarantee in the form of a bond, cash, certified check, or irrevocable letter of credit may be required to ensure completion of parking lots and other parking-related items approved by the Planning Commission pursuant to [Section 20.08 Performance Guarantees](#).

**Section 22.04 Fences, Greenbelts, and Walls**

**22.04.1 Fences (General)**

Fences designed to enclose property in any district shall be subject to the following conditions:

- A. Fences in any platted subdivision, residential development or residential zoning district shall not contain barbed wire or be electrified.
- B. Fence and wall materials may include treated wood, painted/stained wood, treated split rail, ornamental wrought iron, brick, stone, masonry block, molded vinyl, or chain link.

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- C. No fence shall obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.
- D. Fences may be installed without a permit provided the following standards are met:
  1. A fence may locate at or along the property line. Adequate space should be allotted to permit access for maintenance without trespass.
  2. Fences in front setback areas or areas in front of the main building wall may be four (4) feet in height.
  3. Fences in side and rear yards may be up to six (6) feet in height.

Fences exceeding the height of #2 and #3 above shall meet the setback standard of the district in which it is located.

**22.04.2 Greenbelts, Walls or Fences (Protective and Screening)**

- A. For nonresidential uses, except farms, which abut a permitted residential use, or which are adjacent to a Residential District boundary, there shall be provided and maintained greenbelts, fences or walls as required below. These requirements do not apply whenever the use, storage area, etc. is more than 200 feet from an adjacent Residential District boundary.

Specific Non-residential Uses Requiring Fences	Greenbelt, Fence or Wall Height at Property line	Protective	Primary Function (s) Screening or Obscuring
Drive-in restaurants, gas station & vehicle repair	4 to 6 feet	X	X
Educational use and school playground	4 to 6 feet	X	
Parking lot accessory to nonresidential uses	4 to 6 feet		X
Hospital and Funeral home service entrances	4 to 6 feet		X
Utility buildings and substations	4 to 6 feet	X	X
Junk yards/Salvage Yards and Similar Uses	8 feet	X	X
Open storage areas larger than 200 square feet	4 to 6 feet	X	X
Dumpsters and propane tanks	6 feet		X



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- B. Retaining walls shall meet the setback standard of the zoning district if the height of the wall exceeds four feet. Retaining walls exceeding 30” above grade shall be constructed with safety features such as guard rails.
- C. Rooftop mechanical equipment shall be effectively screened from public view unless a modification is permitted by the Planning Commission.
- D. All plans for greenbelts, fences or walls must be approved by the Planning Commission during site plan reviews for construction specifications and shall be designed and maintained to fulfill the primary function of protection and/or screening. Minor modifications may be approved by the Zoning Administrator.

**22.04.3 Plant Materials**

Whenever in this Ordinance a greenbelt or planting is required, it shall be planted within seven (7) months from the date of issuance of a Zoning Permit or before occupancy of the building whichever occurs first. Such planting or greenbelt shall be reasonably maintained, including permanence and health of plant materials to provide a screen to abutting properties and be free of weeds and foreign debris. Spacing and plant sizes, as required by this Section, shall be provided in any greenbelt or designated planting.

**A. Plant Material - Minimum Sized - Maximum Spacing**

- 1. Plant material shall not be closer than four (4) feet from the property line, except for vines intended to attach to fence structures.
- 2. Where plant materials are installed in two or more rows, planting shall be staggered to provide for maximum screening.
- 3. Minimum plant sizes permitted and maximum on-center spacing in any required greenbelt shall be as follows:

General Plant Types	Maximum Spacing Center to Center (feet)		Minimum Allowable size		
	Single	Row Grouping	Height	Caliper	Spacing
<b>TREES</b>					
Large Deciduous (Canopy)	30	40	-	2½”	-
Large Evergreen	15	20	7'	-	-
Medium-Small Deciduous	10	15	-	1½”	-
Columnar Deciduous	8	10	10'	-	-
Narrow Evergreen	5	8	8'	-	-

SHRUBS						
Large: Upright		4	6	4'	-	-
	Spreader	6	8	-	-	3'
Medium: Upright		3	4	3'	-	-
	Spreader	4	6	-	-	2'
Small: Upright		1½	2	18"	-	-
	Spreader	1½	2½	-	-	15"
Conical		2	3	2'	-	-

B. The following plant materials are permitted:

General Plant Types	Materials Permitted – common name
<b>Trees</b>	
Large Deciduous	Oak, Linden, Hard Maple, Beech, Ash, Birch, Honey locust (seedless/thornless), Ginko (Male only)
Large Evergreen	Pine, Hemlock, Spruce, Cedar, Fir
Medium/Small Deciduous	Crabapple, Amelanchier, Cherry, Hawthorn (thornless), Plum, Redbud, Bradford Pear, Mountain Ash, Amur Maple, Russian Olive, Magnolia
Columnar Deciduous	Crabapple, Oak, Maple, Linden
Narrow Evergreen	Arborvitae, Cedar, Cypress, Yew, Juniper
<b>Shrubs</b>	
Large: Upright	Lilac, Forsythia, Privet, Viburnum, Dogwood, Honeysuckle, Sumac, Smoketree, Cotoneaster, Witch Hazel, Buckthorn Common Ninebark, Bayberry, Mt. Laurel, Mockorange, Holly, Pyracantha
Large: Spreader	Juniper, Pine, Cotoneaster, Yew
Medium: Upright	Burning Bush, Rhododendron, Yew, Quince, Sumac, Forsythia, Viburnum, Barberry, Holly, Weigela, Rose, Arborvitae
Medium: Spreader	Juniper, Yew, Cotoneaster
Small: Upright	Azalea, Deutzia Yucca, Leucothoe, Weigela, Fl. Almond, Arborvitae, Rose, Potentilla, Spiraea, Yew
Small: Spreader	Juniper, Yew, Cotoneaster, Spruce, Barberry
Conical	Hinoki False Cycpress, Yew, Arborvitae

C. The following list of trees is prohibited for purposes of meeting the minimum planting requirements of this Ordinance: Box Elder, Tree of Heaven, Poplars, Willows, Soft Maples, Catalpa, Elms, Horse Chestnut (nut bearing).

#### 22.04.4 Planting Plan

A. Whenever greenbelts or any designated planting areas are required under provisions of this Ordinance, a detailed Planting Plan shall be submitted for approval during Site Plan Review. The Planting Plan shall indicate scale, location, spacing, starting size and description for each unit of plant material proposed for use within the required planting

area and a maintenance plan. Detailed Planting Plans shall be submitted in accordance with the following:

1. Minimum Scale 1" = 20'.
2. Planting Plan indicating location, size, and spacing of all plant materials.
3. Typical straight cross section indicating slope, height and width of berms and type of ground cover, or height and type of construction of walls, including footings.
4. Significant construction details to resolve specific site conditions, e.g., tree wells to preserve existing trees, culverts to maintain natural drainage patterns.
5. Planting and staking details in either text or drawing form to insure proper installation and establishment of proposed plant materials.

B. The Planting Plan shall be reviewed relative to:

1. Proper spacing, placement and location of plant materials relative to the length and width of greenbelt so as to insure that the required horizontal and vertical obscuring effect of proposed land uses will be achieved.
2. The selection of plant materials so that branching of root systems not interfere with public utilities and so that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners.
3. The proposed relationship between deciduous and evergreen plant materials so as to insure that the desired obscuring effect will be accomplished.
4. The size of plant materials (both starting and ultimate) to insure adequate maturity and optimum screening effect of proposed plant materials.

C. For any off-street parking lots of twenty (20) spaces or more, there shall be provisions for the planting of Large Deciduous trees as identified in the preceding table and subject to the following conditions:

1. One (1) such tree shall be required for each ten (10) surface parking spaces.
2. Trees shall be of the deciduous type, not less than two and one-half (2-1/2") inch caliper.
3. Trees shall be planted before the issuance of a Certificate of Occupancy and shall be maintained in a healthy, growing condition.
4. The required trees may be evenly distributed or concentrated in clusters as approved by the Planning Commission. If evenly distributed each tree shall be provided with

an open land area of not less than eighty (80) square feet to provide area for infiltration and with a minimum diameter of five (5) feet at the trunk base for added protection. Tree plantings shall also be protected from automobiles with curbing, bollards or other suitable devices.

5. Rain gardens are encouraged.

D. Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and foreign debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant materials required by this Ordinance die or become diseased, they shall be replaced within forty-five (45) days of written notice from the County or within an extended time period as specified in the notice.

### Section 22.05 Outdoor Speakers and Sound Devices

Uses requiring outdoor speakers, outdoor public address systems or similar sound devices shall not operate the equipment without the written consent of the Planning Commission, who shall determine that no public nuisance will be established.

### Section 22.06 Outdoor Lighting

#### 22.06.1 Intent and Purpose

It is acknowledged that the county's economic well-being is heavily dependent upon the resort and tourist industry. This makes preserving the visual quality of the nighttime experience critical to Emmet County.

The purpose of the Section is to help protect the health, safety and welfare of the public by recognizing the need for buildings and sites to be illuminated for safety, security, and visibility from both pedestrian and motorist viewpoints. The goal is to provide guidelines that balance the functional requirements of nighttime lighting with sensitivity to light pollution, visual comfort, and aesthetics and further, to preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to sky glow.

This Section provides standards for various forms of lighting that will: minimize light pollution and light trespass, conserve energy, and enhance safety.

#### 22.06.2 General Provisions

##### A. Projects Requiring a Permit

An outdoor lighting permit shall be required for all new development projects, except for single-family homes on existing lots of record and farms. Projects which by addition or modification, increase the number of existing dwelling units, gross floor area and/or parking spaces by twenty-five (25) percent or greater are subject to the requirements of this Section.

**B. Outdoor Lighting subject to review includes but is not limited to lights used for:**

- Parking Lot Lighting
- Security Lighting
- Roadway Lighting
- Buildings & Structures
- Recreational Areas
- Landscape Lighting
- Building overhangs and open canopies
- Signage and advertisement

**C. Shielding and Security Lighting**

1. All outdoor luminaires subject to this Section shall be fully shielded lighting fixtures to minimize artificial sky glow.
2. All outdoor lighting fixtures shall be placed to prevent light trespass or glare beyond the property line.
3. All outdoor lighting shall be of a type, and placed, to prevent any light above the horizontal plane, as measured at the luminaire.
4. Flood or spot lamps shall be fully shielded and aimed no higher than 45 degrees above straight down (nadir) when the source is visible from any offsite residential property or public roadway.
5. All lighting for commercial, industrial, and any other non-residential activities including billboards and electronic message centers shall be extinguished between 10:00 p.m. or the close of business, whichever is later and 6:00 a.m. or the opening of business, whichever is earlier. Security lighting for these establishments shall be designated on the lighting plan and conform to the regulations of this Section.

**D. Outdoor Lighting Districts**

For the purposes of this Section there shall be three (3) lighting overlay districts established as follows:

1. **Lighting Overlay District 1.** Those areas designated on the County Zoning map as B-1, B-2 and/or PUD along the State Trunk Lines north of Intertown Road and south of Graham and Powell Roads.
2. **Lighting Overlay District 2.** Those areas designated on the County Zoning Map as B-1, B-2, B-3, PUD, I-1 and/or I-2 along State Trunk lines to a depth of 200' from the road right-of-way, excepting those properties in District 1.
3. **Lighting Overlay District 3.** Those areas of Emmet County outside of Districts 1 and 2.

**22.06.3 Outdoor Lighting District Standards**

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- A. The following lighting level measurement standards shall apply to uses established within each Outdoor Lighting District. The values shown are the maximum allowed outdoor light levels as measured from any spot that is illuminated, expressed in footcandles (fc).

USE	District 1	District 2	District 3
Parking Lots (non-display)	8 fc	7 fc	4 fc
Gas Station Canopy Lighting	30 fc	20 fc	20 fc
Display lots	24 fc	20 fc	16 fc
Private Roadway Lighting	3 fc	2 fc	1 fc
Building/Landscape ambient lighting	2 fc	1 fc	1 fc

- B. All uses regulated in this Section shall not exceed 0.5 footcandles at the property line. Where it can be demonstrated by the applicant that allowing a greater intensity at the property line would not negatively affect the lighting quality, health, safety, and welfare of the community, the Zoning Board of Appeals may modify the standards. This does not apply to the limits set in the table above.

C. **Additional Uses**

For those uses not listed above the Zoning Administrator may determine the appropriate District and use based on the location, adjacent uses, and type of use proposed. The applicant may provide industry data to support a different lighting level which may be reviewed by the Zoning Administrator. The Zoning Administrator’s determination may be appealed to the Zoning Board of Appeals.

D. **Luminaire Mounting Heights**

1. All luminaires shall be located and/or mounted at a height no greater than twenty (20) feet measured from final grade to the bottom of the luminaire.
2. The reviewing agency may approve greater mounting/pole heights for the interior of development projects when all of the following conditions are met:
  - a. Fewer luminaires will be required for the site.
  - b. The greater mounting height will not cause light trespass and/or glare beyond the property line for reasons of topography, screening or similar circumstances.
  - c. The greater mounting height will contribute less artificial sky glow by reducing the intensity of the lighting beneath the luminaire.

E. **Prohibited Lighting**

1. Unshielded luminaires of any type.
2. Luminaires designed such that the light source is visible from off-site.

**22.06.4 Application/Review Procedures**

To obtain a permit required by this Section, a lighting plan shall be submitted for approval before installation. The lighting plan shall at a minimum, contain all of the following:

- A. Site plan including the location of all proposed and existing illuminating devices. All directional lighting shall have arrows indicating target areas of illumination indicated in drawings.
- B. Description of all illuminating devices, fixtures, lamps, supports, reflectors. The description shall include manufacturer's data sheets, illustrations and the like.
- C. Photometric data superimposed on the site plan; provided, that for smaller or less complex projects, the reviewing body may accept photometric data supplied by the manufacturer which is separate from the site plan.
- D. Such other information about the site or adjoining sites as may be essential for the reviewing body to determine if the requirements of this Section are being met.

Following submission of a complete lighting plan in accordance with this Section, the reviewing body shall act to approve, conditionally approve, or deny the lighting plan with reasons stated. The reviewing body shall begin formal review of the lighting plan at its next regularly scheduled meeting provided a complete plan has been submitted at least ten (10) days before the meeting.

**22.06.5 Variances**

Subject to a hearing and notification to adjoining property owners of record within 300 feet of the subject parcel, the **Zoning Board of Appeals** may grant a variance to the standards of this Section if all of the following are met:

- A. Neighboring properties will not be adversely affected.
- B. Unique conditions exist on the site.

No modifications shall be granted with respect to the standards regarding luminaire shielding.

**22.06.6 Exempt Lighting**

The following types of lighting are exempt from the standards of this Section.

- A. Holiday lighting.



- B. Lighting required by governmental agencies
- C. Airport lighting
- D. Emergency lighting as used by law enforcement, firefighters, and other public safety agencies.
- E. Temporary construction lighting when used for periods up to 30 days, which are fully shielded and do not emit lighting levels greater than 0.5 fc at the property boundary lines.”

**Section 22.07 Signs and Billboards**

Sign plans shall be reviewed for approval, conditional approval or rejection by the Zoning Administrator. The Zoning Administrator may refer any sign plan to the Planning Commission for review and approval.

**22.07.1 Intent**

The sign standards contained in this Ordinance are declared to be necessary to protect the general health, safety, and welfare of the citizens of Emmet County, and are based on the following objectives:

- A. To promote signs which are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.
- B. To encourage native plants and other landscaping materials around all freestanding signs so as to complement the site and integrate the sign with the buildings, parking areas and natural site features.
- C. To avoid excessive use of signs in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
- D. To place and size signs in such a way that scenic views are protected and visual obstructions to the natural landscape are minimized.
- E. To maintain and enhance economic stability by keeping aesthetic appeal to tourists, resorters, and visitors, and encouraging sign planning that will complement the County's natural environment and preserve its scenic and natural beauty by minimizing visual obstructions to the natural landscape.
- F. To encourage the use of aesthetically pleasing sign materials and colors, and to encourage signs to be predominately natural in appearance, through the use of weather tolerant wood or material of equivalent character.
- G. To encourage the use of subdued colors, with bright colors used only for accent.
- H. To avoid creation of obstacles or traffic hazards by distracting or confusing motorists,

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impairing motorists’ ability to see pedestrians, read other traffic signs, or see other vehicles.

- I. To enhance the effectiveness of necessary signs.
- J. To preserve property values from the negative impacts of unsafe, cluttered, and otherwise unregulated signs on abutting property or in the area.
- K. To avoid bright lights and reflection, and to protect views of the night sky against poorly shielded lights.
- L. To encourage wall-mounted signs not to violate the architecture of the building to which it is attached. For example, signs should not cut across columns or be placed on architectural features.

The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes.

Compliance with this Section does not relieve the applicant from the responsibility of compliance with other local, state or federal sign regulations, nor does the issuance of a Sign Permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of the County Zoning Ordinance.

It is also acknowledged that the county's economic well-being is heavily dependent upon the resort and tourist industry. This dependence makes the preservation of the environment from unreasonable signage a matter of critical importance to this County.

**22.07.2 Signs Authorized Requiring a Permit (unless stated otherwise)**

	R-1, R-2, RR, and SR		FF-1 and FF-2		B-1, B-2, B-3, PT, and I	
	Number Allowed	Maximum size allowed	Number Allowed	Maximum size allowed	Number allowed	Maximum size allowed
Freestanding Sign – Permit required for new signs	1	18 sq. ft. and 8 ft. in height	1	32 sq. ft. and 8 ft. in height	1	56 sq. ft. and 10 ft. in height  (Signs located in the road right of way shall not exceed 32 sq. ft. and 8 ft. in height)*
			Shall not be longer than four (4) times its width.			

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	AND/OR		OR		AND	
Wall-Mounted Sign – Permit required for new signs	1	8 sq. ft. May project outward up to three (3) feet  Wood crafted or is a sign of equivalent character.	1	32 sq. ft. Shall not be longer than four (4) times its width.	1 or 2	15% of the surface area of the mounting wall  (computed on the ground level story only – ground level story height may not exceed 12 feet)  A second wall-mounted sign may be permitted on buildings located on a corner lot.  A banner may be permitted in lieu of a wall-mounted sign provided it is securely attached to the wall and it meets all other requirements of a wall-mounted sign.
	Wood crafted or is a sign of equivalent character.		Shall not project beyond or overhang the wall face by more than five (5) feet.  No sign shall project above the ridge line of a hip, gambrel, gable, or mansard roof, or above the parapet of a flat roof.			
	R-1, R-2, RR, and SR		FF-1 and FF-2		B-1, B-2, B-3, PT, and I	
	Number Allowed	Maximum size allowed	Number Allowed	Maximum size allowed	Number allowed	Maximum size allowed
Additional Signs – no permit required			Four (4) accessory signs not to exceed four (4) square feet in area on buildings; except that one sign may be located at each approved driveway not to exceed four (4) sq. ft. and six (6) feet in height.			
Additional Signs – no permit required	1	Non-illuminated – two (2) square feet	One (1) non-illuminated – three (3) square feet			

Additional Sign – no permit required			1	On a farm up to twenty-four (24) sq. ft. and 8 ft. in height		
Window Signs – no permit required		10% of the total window space		10% of the total window space		10% of the total window space
Canopy or Marquee Signs	Integral canopy signs shall be allowed in place of permitted wall mounted signs with message information, i.e., letters, numerals, symbols etc., not to exceed fifteen (15) percent of the canopy surface. For the purposes of calculation, the subject canopy will be considered to fall within a measurable square or rectangular enclosure					
* Signs cannot obstruct the view of permanent signs, drives, roads, etc. Signs in a right-of-way are subject to any further rules, provisions, or prohibitions as determined by the governmental unit or agency having jurisdiction.						
It is intended that freestanding signs located at an approved driveway be included on the sign plan for approval as to location and number by the Zoning Administrator.						

**A. Accessory Signs in all Districts**

In addition to the permitted signs, a development may have one non-illuminated free standing sign, located within the project area and not to exceed the freestanding sign size standard for the applicable district. Such sign shall not be readily visible from the frontage road. Additional signs mounted on and parallel with the wall may be permitted provided the signs in total do not exceed the area standards for the wall mounted signs in the applicable Zoning District.

**B. Signs as a Main Use**

Signs on vacant property shall be restricted to the B-2 District provided the area of the sign does not exceed fifty-six (56) square feet, the height of the sign does not exceed ten (10) feet, there is at least two thousand (2,000) feet of separation between any two such signs on both sides of the road and two hundred (200) feet of separation between a sign as a main use and an accessory sign, and two hundred (200) feet of separation between a sign as a main use and any other existing building over two hundred (200) square feet.

A sign as a main use may not include a changeable message sign or changeable message component.

All required permits from the Michigan Department of Transportation shall also be obtained before erecting the sign as a main use.

**C. Changeable Message Signs**

One changeable message sign per business premise subject to the following: changeable message signs, including, but not limited to, electronic changeable message signs, shall be permanently affixed to, and be parallel with the wall of the main building or designed into the freestanding sign as an integral part of the freestanding sign structure.

1. Changeable message signs may not exceed 40% of the allowable sign area.

2. Such changeable message signs shall have no moving parts.
3. The background shall be unlit, and the letters shall be monochrome.
4. Electronic changeable message signs must meet all other standards of [Section 22.07](#).
5. Electronic changeable message signs may not be illuminated between the hours of 10:00 P.M. and 6:00 A.M., except for premises that are open for business after 10:00 P.M., then the lighting shall be turned off at the close of business.

**D. Accessory Signs In PUD Districts**

In PUD Zoning Districts, sign standards shall be determined by site plan, PUD development plan and the proposed uses. Residential PUD projects may be allowed signs as regulated in Residential Zoning Districts. Business and/or Industrial uses may be permitted to have signs as regulated in Business and/or Industrial Zoning Districts.

**22.07.3 Non-Conforming Signs**

It is the intent of this Section to permit the continuance of all permanent signs or outdoor advertising structures existing at the effective date of this Section although such sign or outdoor advertising structure may not conform to the provisions of this Article. It is also the intent that nonconforming signs shall not be enlarged upon, expanded, or extended. Further, it is the intent that nonconforming signs shall be gradually eliminated and ended upon their natural deterioration, destruction, removal, or replacement. The continuance of all nonconforming signs and outdoor advertising structures within the County shall be subject to the conditions and requirements set forth below.

**A. Structural Changes**

Signs may be repaired, or renovated, and kept in good repair. The faces, supports, or other parts of any nonconforming sign shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign conforms to the provision of this Section.

**B. Placement**

No nonconforming sign shall be relocated on a property, unless located in conformance with this Ordinance and sized to conform to this Ordinance.

**C. Illumination**

Illumination may not be added to any nonconforming sign.

**D. Destruction**

Should any nonconforming sign be destroyed by any means, to the extent of 80 percent or more, it shall be reconstructed only in conformity with the provisions of this ordinance.

**E. Change on Sign Face**

The message of a nonconforming sign may be changed so long as this does not create any new nonconformities.

**22.07.4 Signs Prohibited**

- A. Signs containing flashing, intermittent, or moving: lights, images, motion pictures, or similar mechanisms.
- B. Signs which are erected in such a manner as to obstruct free and clear vision or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
- C. Signs with moving or revolving parts and/or messages.
- D. Signs affixed to trees, rocks, shrubs, fences, utility poles, or other similar features.
- E. Signs which are insecurely fixed, unclear, or in need of repair.
- F. Portable signs utilizing vehicles, trucks, vans, or other wheeled devices; or tripod, sandwich boards, or changeable message signs, except that licensed vehicles painted or affixed with signs shall not be prohibited from properly parking in a designated parking space.
- G. Advertising devices such as banners, balloons, advertising flags, pennants, pinwheels and searchlights or other devices with similar characteristics unless otherwise permitted in this Section.
- H. Signs which overhang or extend into a dedicated public right-of-way without the written consent of the governmental unit having jurisdiction.
- I. Signs that have concrete foundations or other solid anchoring devices that project above the surface of the ground and located so as to constitute a safety hazard to vehicle traffic.
- J. Signs using glass beads, and/or reflectors shall be prohibited as main background treatment of the sign, but may be used in minor proportions for lettering or incidental artistic details, provided there are no visual conflicts with official traffic signs.

**22.07.5 Signs Not Requiring a Zoning Permit**

The following, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard:

- A. Signs required by or approved by federal, state, or local units of government.
- B. Banners, balloons, advertising flags, pennants, and pinwheels, or other devices with similar characteristics may be used temporarily for periods not to exceed thirty (30) consecutive days upon the opening of a new type of business or use by a new owner.
- C. **Replacement Signs**  
An existing sign that is removed shall only be replaced if it conforms to the size, area, height, and lighting requirements of this ordinance. No permit is required; however, review of the proposed sign with the Zoning Administrator is recommended.

**D. Temporary Sign**

One additional temporary sign may be permitted in all zoning districts on property offered for sale or lease. Such sign shall not exceed ten (10) square feet and eight (8) feet in height on properties zoned R-1, R-2, RR, or SR. Such sign shall not exceed thirty-two (32) square feet and eight (8) feet in height in all other zoning districts.

Other temporary signs, not listed in this Section, shall be regarded and treated in all respects as permanent signs which require a permit.

**22.07.6 Placement of Signs and Setbacks**

- A. Accessory signs may be located at the right-of-way line, but shall not be located within the right-of-way unless permitted by the road agency having jurisdiction. Accessory signs shall be sited to prevent one sign from blocking the view of another sign.
- B. Signs as a main use shall be setback the required distance in the zone (front and side).

**22.07.7 Flags**

**A. Permits Required**

No property owner may erect or construct any flagpole higher than thirty (30) feet above ground without first obtaining a zoning permit. Metal flagpoles requiring a zoning permit shall be engineered and constructed in accordance with the [American National Standard Institute](#) – National Association of Architectural Metal Manufacturers (ANSI/NAAMM) Guide Specifications for Design of Metal Flagpoles, FP 1001-97 as amended.

**B. Approval Process**

Permits required under this section shall be subject to review by the zoning administrator.

**C. Height & Size**

The top of all flags (including the flagpole), regardless of the manner of mounting, shall be no higher than the height restriction for buildings/structures in the zoning district in which they are located. The size of the flag shall be no larger than recommended by the manufacturer of the pole or sixty (60) square feet, whichever is smaller. In the PUD and PUD-RO districts, the maximum height of a flagpole shall be thirty (30) feet or the height of the building in which the flagpole is located, but in no instance higher than sixty (60) feet. Flags may be increased in size in the PUD and PUD-RO district according to the flag pole manufacturer’s specifications or ANSI/NAAMM Guide Specifications for Design of Metal Flagpoles, FP 1001-97 as amended.

**D. Setbacks**

Flags and flagpoles shall be set back sufficient distance to enable the flag to fly fully open without flying over the property of others.

**E. Number**

No more than three (3) flagpoles shall be allowed per parcel or lot.

**22.07.8 Sign Lighting**

Sign lighting should be of no greater wattage than is necessary to make the sign visible at night and should not reflect onto adjacent properties. Lighting sources shall not be directly visible to passing pedestrians or vehicles and should be concealed so that direct light does not shine through, under, or over any element of a sign.

- A. Sign lighting other than street and security lights shall be turned off between the hours of 10:00 P.M. and 6:00 A.M., except for premises open for business after 10:00 P.M., then the lighting shall be turned off at the close of business.
- B. For internally lighted signs, the sign background, or field, shall be dark colored and opaque. Letters, numerals, logos, and similar message elements may be of a translucent material to permit internal lighting to reveal the message or information for which the sign is intended. All other lighted signs shall incorporate the lighting source as part of the sign structure, i.e. top, bottom, or side mounting. Ground mounted lighting sources are prohibited.
- C. Night lighting of flags shall be of sufficient wattage to illuminate flag surfaces only and shall not be excessive thus contributing to light pollution of the night sky. It is recommended that the flag be illuminated from the top down and directed so as not to interfere with passing pedestrians or vehicles. Ground mounted lighting is prohibited.
- D. Neon lighting and/or other gas filled light tubes are permitted when used for the indirect illumination of signs, and/or when placed in windows.
- E. Signs with reflective paint are encouraged in lieu of sign lighting.

**22.07.9 Measuring - Area and Height of Sign**

The area of sign shall be determined by circumscribing the exterior limits of each display erected on one sign structure, including the sign background (but not supporting features or roof like covers) with the smallest square, rectangle, triangle, circle, parallelogram, or trapezoid, that will connect all extreme points of the sign display and including voids, unused space, or air spaces between multiple display features. The structural features and supporting elements of a freestanding sign, including decorative facades, canopies, and base treatments, shall not have a facing surface area that exceeds the area of the message portion of the sign.

The area of sign measurement shall be based on one display face, but both sides of the display face may be used for sign purposes without increasing the area of sign. Sign panels, if not back-to-back and the back face is separated or angled from the other by more than four (4) feet for parallel faces, and/or angled on the inside more than forty-five (45) degrees, the second face shall be added to the allowable area of sign.

The height of all free standing signs as specified in this ordinance shall be measured from the average existing grade at the base of the sign to the top of the sign and shall include roof like covers and supporting structures.

**22.07.10 Sign Variances**

In order to allow greater flexibility in property and use signing, the Emmet County Zoning Board

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of Appeals may permit signs that:

- A. Exceed the maximum number of signs permitted when there is more than one bordering County Primary or State Trunkline Highway, and the sign is placed directly in front of the building wall, which faces each road, or farther from the intersection line than the wall.
- B. Exceed the maximum sign area for the following reasons: Deep use setback, cooperative sign use (joint use or community type advertising), large site area, and/or natural feature limitations to attaining reasonable signing of the use, or if the property shares a common front or side lot line with a B or I Zoning District.

In granting sign variances, the Zoning Board of Appeals shall consider the impact of each sign on adjoining residential districts, scenic views, out of character skyline intrusions, and obstructions to signs or uses on adjoining properties. The purpose of the sign and its applicability to uses that serve tourists or passerby motorists shall be considered in granting or denying a sign exception.

**22.07.11 Application Procedure**

Applications for sign permits shall be made upon forms provided by the Zoning Administrator and shall contain or have attached thereto the following information:

- A. Name, Address, telephone number, and email address of the applicant and property owner (if other than the applicant).
- B. Location of building, structure or lot to which the sign or other advertising structure is to be attached or erected.
- C. Site or plot plan showing the location of the sign.
- D. One (1) graphic of the proposed sign(s), including dimensions, height, and lighting details (as applicable).
- E. Written authorization of the property owner where the sign is to be erected.

Sign plans referred to the Planning Commission by the Zoning Administrator shall follow the process for Site Plan Review. The sign plan may be separately submitted or be an integral feature of the Site Plan. If submitted separately from the initial site plan review, a separate application process and fee applies. Sign Variances shall follow the procedures for Zoning Board of Appeals review. Sign Review applications and detailed procedures are available through the office of the Zoning Administrator.

No provision of this Section shall be construed to prevent an applicant from seeking prompt judicial review of a decision on an application.

**22.07.12 Review**

Sign permits shall be denied, approved, or approved with conditions within 45 days after submission of the complete application. If a decision on the application has not been made within



45 days, the application shall be considered approved. Sign Variances per [Section 22.07.10](#) shall be denied, approved, or approved with conditions within 90 days after submission of the complete application. If a decision on the Sign Exception application has not been made within 90 days, the application shall be considered approved.

**22.07.13 Substitution Clause**

Any sign that can be displayed under the provisions of this ordinance may contain a non-commercial message.

**22.07.14 Sign Removal from Public Right-of-Way**

Any unauthorized sign that is placed on public property or within the road right-of-way is subject to removal by the Zoning Administrator. If the owner or party responsible for such sign is known, the county shall provide the owner or responsible party with an opportunity to retrieve the removed sign. Any such sign that has not been retrieved within 30 days following removal is subject to disposal. The county shall not be responsible for any loss or damage incurred in connection with the removal or temporary storage of any unauthorized sign.

**Section 22.08 Land Development Standards**

Land development projects may be permitted upon review and approval by the Emmet County Planning Commission in all zoning districts. Applications for projects under this Section are also eligible for simultaneous review as [Subdivision and Site Unit Condominium Open Space Plans under Article 22](#). The following standards for Land Developments shall apply:

**22.08.1 Uses Subject to Review**

- A. All proposed land development projects that involve condominiums and non-platted land division which will result in five (5) or more site units or zoning lots within a ten (10) year period of time are subject to review. Any parcels that are created for common areas for roads, pathways, or open spaces, and/or results in development parcels larger than fifteen (15) acres and wider than 330 ft., need not be included in the count of the five (5) parcel division standard. However, such parcels shall be subject to Zoning Administrator approval.
- B. Minor or limited re-arranging of lot lines within an approved land development project may be approved by the Zoning Administrator, if the number of building sites, lots or site unit condominiums are not increased and that driveways, sanitary sewage disposal facilities, stormwater management and emergency access is not diminished thereby.

**22.08.2 Unit Configuration and Design Standards**

- A. Condominium units and their adjoining common element yards (not roads) and other non-platted land divisions as described above shall conform to the parcel dimensional, area, height, bulk and setback provisions as regulated in this Ordinance. The parcels may be required to be staked in the field for use in identification.
- B. Parcels or condominium site units abutting a public or private road may be required to be

designed with reverse lot frontage, have a side-lot orientation to roads, and/or be accessed from a service road(s).

- C. All proposed projects shall conform to the standards of **Article 20 Site Plan Review**, and shall include an inventory of on-site natural features. The plan shall illustrate how the arrangement of proposed parcels relate to the natural features defined Article 20.

**22.08.3 Access Road Design Standards**

The following standards shall apply to all land development projects as described above.

- A. Unless the proposed access roads conform to Emmet County Road Commission Standards, all vehicle accessways shall provide sufficient side and overhead clearance to accommodate fire-fighting equipment, other emergency vehicles, snow plows, school buses, sanitation vehicles and similar service units, in accord with the following schedule:

Access Types	Land Division Size Categories	
	3 to 4 lots	5 lots and over
Road Easement	50'	50'
Road Surface	22'	22'
Shoulders	2' on each side	2' on each side
Total Road Width	26'	26'
Cul-de-sac Easement (Diameter)	--	140'
Cul-de-sac Surface (Diameter)	--	120'
Maximum Road Grade	--	10%
Maximum Cul-de-sac grade	--	--

A private road shall not be constructed, extended, or relocated, except in accordance with the minimum standards and requirements of this Ordinance. If an additional lot or site unit is proposed to be served by an existing private road, the existing road shall be required to meet the requirements of this Ordinance. If an existing road is proposed to be extended, then the existing portion and the new portion shall be improved and constructed to comply with this Ordinance.

**B. Road Sub Base**

Gravel shoulders are not required, but the pavement shall be flush with the shoulder elevation. Shoulder grading shall not exceed a slope of one half inch per foot. The road shall have a minimum of two-tenths of an inch per foot crown from centerline to the edge of the road. The road base shall consist of at least six (6) inches gravel base (MDOT 22A) with a twelve (12) inch sand sub-base (MDOT Class 2). The road surface shall widen at any dead-end or cul-de-sac as required in the preceding table. The road surface does not need to cover the entire radius of the turn-around providing that the road surface is at least the minimum required width of 22 feet throughout the turn-around, with the outer edge of the road surface being at or beyond the 120' diameter of the turn-around. The top elevation

of the roadway shall be a minimum of three (3) feet above the seasonal high water table. A new private road or extension of an existing private road that provides or is intended to provide access to five (5) or more lots shall meet the requirements of this paragraph and shall also be paved with a minimum of two (2) inches of asphalt or equivalent dustless surface.

Roads surfaces shall meet the zoning setback standards of the District in which located (measured from the property line to the edge of the road surface) in order to provide snow storage from plowing and minimum storm runoff dissipation space. Roads intended to serve adjacent parcels, by mutual agreement of the property owners involved, are exempted from this setback requirement.

**C. Utility Provisions**

To the extent applicable, provisions shall be made to accommodate utility services that are to be installed, such as telecommunications, electric power, gas lines, water mains, sanitary sewage collection, storm water run-off, snow storage, and the like.

**D. Intersections**

Street intersections shall be laid out so as to be at or as near to a ninety (90) degree angle as possible. Where a private road intersects or connects with a public road, the private road shall meet all requirements from the road agency having jurisdiction.

**E. Road Names**

Roads shall be named according to the current Emmet County Street and Road Numbering Ordinance and state and local standards.

**22.08.4 Engineering Requirements**

- A. Storm water drainage plans shall address flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like.
- B. The drainage plan shall indicate the manner in which surface drainage is to be disposed of. This may require making use of the existing ditches, natural watercourses, or constructing tributaries, but shall not result in storm water that exits the detention pond and/or property site at an erosive velocity. Additional hard surfaces proposed for a site must provide for detention and/or retention. The minimum requirements for retention and detention facilities are as follows: For sandy sites the volume of retention and/or detention shall be equal to the volume of 1 and ½" of water depth multiplied by the area of additional hard surface. For all sites other than sand, the volume of the retention and/or detention shall be equal to the volume generated from 2" of water depth multiplied by the area of additional hard surface. Both detention and retention facilities must be designed to assure that water is released within 72 hours. Detention facilities are to have a pipe no larger than 4" exiting the ponds at a grade no greater than 1%. For the purpose of this [Section 22.08.4](#), sandy shall be defined as soils that meet a percolation rate consistent with the Emmet County Sanitary Code of 0 to 15 minutes.

- C. All storm water drainage plans shall be sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive the requirement, defer the requirement, or determine that a fully engineered storm drainage plan is not necessary, or can be deferred to a future date. Improvement guarantees shall be required, unless waived by the Planning Commission, for all storm water drainage plans in the form and amount acceptable by the Planning Commission to guarantee completion of the project in accordance with the conditions of the zoning permit. The performance guarantee will be released upon final inspection and approval by the Zoning Administrator, and receipt of sealed as built plans for storm water drainage.
- D. Storm water retention basins designed to keep a fixed pool of water shall include one or more of the following safety features: 1) safety ledge(s) at least (10) feet wide at the basin perimeter, 2) vegetation surrounding the basin to discourage wading, or 3) fencing to prevent unauthorized access to basin.

**22.08.5 Maintenance agreement**

A road maintenance agreement, access easement agreement, and deed restrictions shall be provided which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. At a minimum, these documents shall contain the following provisions:

- A. The method of initiating and financing such road and/or easements in order to keep the road in a reasonably good and usable condition.
- B. A workable method of apportioning the costs of maintenance, improvements, and extensions of the private road. For new private road applications and for applications for extensions of existing private roads, the recorded road maintenance and improvement agreement shall provide that any future improvements required or desired shall be completed over the entire length of the private road and any extensions thereto.

**22.08.6 Maintenance Standards**

Improvements to and maintenance of private roads shall be accomplished so as to provide for a consistent surface maintained to meet the requirements of this Ordinance throughout the entire length of the private road.

**22.08.7 Exceptions**

It is declared that the design of any given development plan is strongly influenced by the specific characteristics of each project area site, and that a universal application of adopted design standards may not be in the best interest of the community and/or applicant. The Zoning Board of Appeals is therefore granted authority to modify and/or alter the standards at the public hearing. Any modifications are subject to a showing that the strict application of those standards would serve no good or practical purpose.

In granting any modification to these standards, it shall be determined that a better development plan can be put into place, particularly in terms of the impact on the adjacent properties and on the community as a whole. Modifications shall not be granted if they are found to be contrary to the purposes and intent of this ordinance or contrary to any applicable county or township comprehensive plan.

**Section 22.09 Reserved**

**Section 22.10 Shoreline Bluff Protection**

**22.10.1 Intent**

The Shoreline Bluff regulations are established with the following intent:

- A. To protect the natural environment and the integrity of the Shoreline Bluff, which is a distinctive and valuable natural feature of Emmet County’s Lake Michigan shoreline.
- B. To recognize the potential for hazards to health and safety to persons and property from Bluff development.
- C. To protect the stability of the Shoreline Bluff, and thereby reduce the risks of erosion, undermining, slumping, or collapse of the Bluff, and to protect the waters of Lake Michigan from unnatural sedimentation.
- D. To promote the recommendations of the Emmet County/City of Petoskey Comprehensive Plan relative to the constraints that should be considered in developments that impact hillside environments.

**22.10.2 Regulation of Shoreline Bluff Protection Zone**

- A. Except as otherwise provided in this Section, excavation or construction activity is prohibited within the Shoreline Bluff Protection Zone. The Shoreline Bluff Protection Zone includes an area within fifteen (15) feet of the top of the bluff, the face of the Shoreline Bluff as it extends lakeward from the top of the bluff to the toe of the bluff and the area extending lakeward fifteen (15) feet from the toe of the bluff. For purposes of this Section, the following terms shall mean:
  - 1. **Top of the Bluff** is the point where the slope toward Lake Michigan first exceeds a grade of 33%.
  - 2. **Toe of the Bluff** is the point where the slope toward Lake Michigan first decreases to a grade of less than 33%.

- B. This Section shall not apply to:

1. **Stairways.** The installation, repair and maintenance of open stairways, open landings of 200 square feet and under, pathways and ramps, all intended to access the areas below the bluff.
2. **Remodeling.** Interior remodeling, changed floor plans, re-roofing, re-siding, replaced walls and the like, if no footing or foundation work within the Bluff Protection Zone is involved.
3. **Existing driveways.** The reconstruction of existing driveways including the replacement of existing surface materials and maintaining the existing driveway width or otherwise where no new excavation work would be needed.
4. **Utilities.** The repair, replacement or reconstruction of utility services to include all elements of sanitary sewage systems, wells and water services and other existing accessory service utilities.

**22.10.3 Regulated Shoreline Bluff**

The regulated Shoreline Bluff, for purposes of this Section, is the single continuous and highest bluff feature that generally parallels the west side of Highway M-119 and where applicable, N. Shore Drive and only on the west side of the roads. Any shoreline bluff feature that is regulated as a Critical Dune is not subject to the Shoreline Bluff regulation in this Section. Where the Shoreline Bluff is within a Critical Dune area, but is not regulated as a critical dune, it shall be subject to this Section.

Excavation and construction activity in the Shoreline Bluff is further subject to regulations related to soil erosion and sedimentation control, stormwater management, endangered species, and other pertinent environmental regulations, and regulations related to construction, sanitation, access and the like.

**22.10.4 Shoreline Bluff Identification**

The Shoreline Bluff feature is best determined by on-site surveys, but is discernable on aerial photographs and on topographic maps published by the US Geological Survey (USGS). The extent of the Shoreline Bluff for purposes of this Section begins at the south 1/8th line in Section 30, T36N-R6W, Friendship Township and extends north through Friendship, Readmond and Cross Village Townships, (T37N-R6W) to a point on Chippewa Drive that is approximately 700 feet westerly of Shore Drive in the NE 1/4 of the NE 1/4 of Section 34, T38N-R6W, Cross Village Township. The Shoreline Bluff is illustrated on the Zoning Map.

**22.10.5 Site Plan Review**

Site plan approval by the Emmet County Planning Commission, in accordance with this Section, is required before any excavation or construction in the Shoreline Bluff Protection Zone.



**A. Site Plan Content**

In addition to the graphic requirements for site plans set forth in [Section 20.03](#) of this Ordinance, site plans required under this Section shall contain the following information:

1. All lake shorelines, streams, wetlands, groundwater seeps, springs, soil types, soil strata and groundwater table on the disturbed area at the site.
2. All existing roads, driveways, structures, culverts, and other pertinent features on the site or within 100' of the site area to be disturbed.
3. Existing ground contour lines and proposed ground contour lines at 5-foot intervals encompassing the area to be disturbed and in the immediate area of influence of the disturbed areas, e.g. within 15 feet.
4. All proposed construction activities on the site, including, but not limited to, the installation of the sanitary sewage disposal system, the storm water management system, including outflow and outlet facilities, and other areas proposed to be disturbed.
5. An inventory of existing vegetation and individual trees measuring three inches (3") or more in diameter (caliper) proposed to be disturbed/removed.
6. Slope stability assessment based on the proposed construction activity and the impact on the bluff.
7. Construction staging and progress schedule.
8. Additional information if determined necessary or helpful by the Planning Commission in reaching a decision.

**B. Certification**

All site plans required under this Section shall be signed and sealed by a Michigan Registered Professional Engineer.

In addition, upon the completion of construction, a Michigan Registered Professional Engineer shall certify that all work has been done in accordance with the approved site plan. Such certification shall be provided within forty-five (45) days of the completion of the work.

**C. Impact Statement and Environmental Assessment**

All site plans required under this Section shall meet the impact statement requirements for site plans set forth in [Section 20.04](#) of this Ordinance.

In addition, an environmental assessment shall be provided, and it shall include the following information concerning the site of the proposed use:

1. The name and address of the applicant
2. A description of the applicant’s proprietary interest in the site.
3. The name, address, and professional qualifications of the person preparing the environmental assessment and his or her opinion as to whether the proposed development of the site is consistent with protecting features of environmental sensitivity and archaeological or historical significance that may be located on the site.
4. The description of the proposed use.
5. The location of existing utilities and drainage ways.
6. The general location and approximate dimensions of proposed structures.
7. Major proposed change of land forms such as new lakes or ponds, terracing, fills or berms, or excavating.
8. Sketches showing the scale, character, and relationship of structures, streets, or driveways, and open spaces.
9. Approximate location and type of proposed drainage, water, and sewage facilities.
10. Legal description or clear identification of the property.
11. A physical description of the site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.
12. A natural hazards review consisting of a list of natural hazards such as periodic flooding, poor soil bearing conditions, and any other hazards peculiar to the site.
13. An erosion review showing how erosion control will be achieved, and illustrating plans or programs that may be required by any existing soil erosion and sedimentation ordinance.

Additionally the following environmental impact statement may be required if determined to be necessary or helpful in reaching a decision, it shall include all of the information of the previous 13 items, in addition to the following:

- A. Six (6) copies of a schematic use plan of the proposed site showing the general location of the proposed use and major existing physical and natural features on the site, including, but not limited to, watercourses, rock outcropping, wetlands, and wooded areas. One (1) reproducible transparency may be requested or more copies requested if necessary for proper review.



- B. Specific location and dimensions as applicable of the following existing and/or proposed features: utilities, drainage ways, public streets, parks, railroads, utility rights-of-way, driveways, sidewalks, pedestrian ways, trails, off-street parking, loading areas, existing structures and proposed structures.
- C. Approximate existing and proposed contours and drainage patterns, showing at least 5-foot contour intervals.
- D. Sketches showing the scale, character, and relationship of structures, streets or driveways, and open space.
- E. Approximate location and type of proposed drainage, water and sewage treatment and disposal facilities.
- F. A short description of the soil types found on the site and whether the soils hold limitations for construction and/or for on-site sanitary sewage treatment.
- G. At a minimum, plans for compliance with all of the following standards shall be required for construction and post construction periods:
  - 1. Surface drainage systems designed to prevent erosion through control of the direction, volume, and velocities of storm water runoff.
  - 2. The design shall provide for debris collection devices when handling street and parking drainage.
  - 3. Water courses designed to control volumes, and velocities of water to prevent bottom and bank erosion.
  - 4. If vegetation has been removed or has not been able to occur on exposed surface areas, stabilization measures shall be taken to prevent wind erosion and the blowing of surface material.

**D. Procedure**

The Emmet County Planning Commission shall review a site plan required under this Section, with due notice given to all owners of record within 300 feet of the subject property, and shall:

- 1. Determine whether or not the requirements of this Ordinance have been met.
- 2. Require an independent engineering review of the site plan, if determined to be necessary or helpful in reaching a decision.
- 3. Recommend alterations of the plan to minimize adverse effects on the natural environment and/or neighboring properties as a condition of approval.

4. Seek the assistance of the Natural Resource Conservation (NRCS) and/or Soil Erosion/Stormwater Management Officer relative to issues of soil erosion or stormwater runoff control, if determined to be necessary or helpful in reaching a decision.
5. Within forty (40) days of the filing of a complete application, render a decision to approve, reject or conditionally approve the plan, however, a decision may be postponed for up to an additional sixty (60) days to allow for an independent engineering review of a site plan, or with the consent of the applicant, establish a different schedule.
6. In approving a site plan under this Section, the Planning Commission may impose reasonable conditions to ensure compliance with the standards, requirements and intent of this Section and this Ordinance.

A site plan shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance, and any conditions imposed under this Ordinance. An approved site plan shall become part of the record of approval, and subsequent actions relating to the activity permitted shall be consistent with the approved site plan unless a change conforming to this Ordinance receives the mutual agreement of the owner of the land affected and the Planning Commission.

**E. Fees**

In addition to any other fees required under this Ordinance, a supplemental fee shall be required from the applicant to cover the actual costs of any independent engineering review before, during and after excavation or construction.

**F. Performance Guarantees**

An adequate performance guarantee in the form of a surety bond, cash, certified or cashier’s check, certificate of deposit, or irrevocable bank letter of credit, as selected by the applicant, may be required by the Planning Commission to insure faithful completion of construction/ improvements in accordance with the plan required under this Section. The amount of the guarantee shall be set by the Planning Commission based upon reliable estimates of the costs of completing the work. The guarantee shall be refunded upon satisfactory completion of the work, per engineer’s certification as required in this Section

**22.10.6 Shoreline Bluff Standards**

- A. The Planning Commission shall not approve a site plan for a property where the planned construction is in the Bluff Protection Zone where there exists a feasible and prudent alternative location on the owner’s lot of record, which shall include owner’s land lying east of Highway M-119.
- B. The Zoning Board of Appeals may only hear and decide appeals from decisions of the Planning Commission regarding the existence of a feasible and prudent alternative location

on the owner’s lot of record. In addition to meeting the applicable requirements of [Article 25](#), the applicant must show that the lot of record was not created strictly for the purpose of avoiding the consideration of alternative locations under this Section.

- C. The necessity to prove a prudent/feasible alternative shall not apply to existing residential buildings within the Bluff Protection Zone that may be destroyed by fire or other means (even to 100%).
- D. To be approved by the Planning Commission, a site plan must comply with the standards set forth in [Section 20.05](#) of this Ordinance and with the following standards:
  - 1. The amount of disturbed area shall be minimized at any one time.
  - 2. The impact to wildlife and native vegetation shall be minimized by preserving the natural habitat.
  - 3. Existing native vegetation shall be preserved to the maximum extent possible. Where feasible, the existing soil mat (topsoil, root structure, tree stumps, etc.) shall be maintained when trees and brush are removed. Vegetation shall be restored in areas affected by construction activities, and where feasible, native vegetation shall be used in such restoration.
  - 4. The site plan shall, as appropriate in each case, include a Shoreline Greenbelt to: (a) act as a natural trap or barrier for soil/debris that slumps, falls or erodes from the bordering bluff slope, and (b) serve as a natural erosion control measure. The extent of the Shoreline Greenbelt shall be based on site plan information as pertinent to each specific property.
  - 5. All driveways intersecting public roads shall intersect at an angle between 70 and 110 degrees with the public road.
  - 6. The maximum longitudinal driveway entrance shall be no steeper than a 4% grade for a minimum of 30' from the edge of the traveled lane of a public road.
  - 7. The maximum longitudinal driveway grade shall be 12%.
  - 8. A vehicle safety barrier shall be installed along all driveway sections with parallel drop off grades steeper than 33% and greater than a 10-foot vertical height to level ground.
  - 9. New driveways may be constructed down the bluff face in those cases where there is a nearly level natural shelf below the face of the bluff that is of sufficient length and width to site a residence (or two) that will meet the bluff toe setback standards and the 1986 record high water mark setback. Driveways in the Bluff Protection Zone shall also meet the side setback standards of the District. Any such access drive shall be essentially straight and not have a switch-back feature that impacts

the bluff face.

- E. The Planning Commission may waive or allow a modification of one or more of standards 1. through 8., but not 9., above, if supported by construction plans signed and sealed by a Michigan Registered Professional Engineer who shall take into account the concerns of affected road agencies, environmental protection agencies and public safety authorities.

**22.10.7 Conflicting Regulations**

The requirements of [Section 27.14](#), Conflicting Regulations notwithstanding, the terms, conditions and standards of the [Critical Dune Act \(P.A. 451 of 1994, as amended\)](#) shall supersede the terms, requirements and conditions of the Shoreline Bluffs regulations.

**22.10.8 Lot of Record**

A lot of record shall not be created strictly for the purpose of avoiding consideration of alternative locations under this Section.

**Section 22.11 Minimum Waterfront Setback**

**22.11.1 Intent**

To provide minimum setback standards in the Zoning Ordinance to protect surface water resources and flood plains from adverse construction or alteration. These measures being considered to be the minimum necessary in order to:

- A. Avoid excessive structural encroachment of the natural waters and waterways, except uses traditionally depending upon direct water access.
- B. Promote high water quality through encouragement of an undisturbed natural area to trap nutrients and sediment from entering natural waters, and prevent erosion. It is suggested that a minimum shoreline greenbelt of 35 feet be maintained.
- C. Protect the natural environment of streams and lakes for wildlife habitat purposes and to preserve, to the extent practical, the natural image of landscapes.

**22.11.2 Minimum Waterfront Setbacks**

Any property which borders on or contains a natural river, stream, pond, or lake, which is identifiable on the U.S. Geological Survey Maps of Emmet County, shall be subject to waterfront setbacks for buildings and uses, as follows:

- A. No fill or permanent construction in any floodway appurtenant to a natural river, stream, pond, or lake, which is identifiable on U.S. Geological Survey Maps of the 7' or 15' quadrangle series, and further identified as an area that is prone to annual flooding, i.e. a natural storage basin during high water levels. Fill can be approved if accomplished in

such a way as to not reduce or diminish the water holding capacity of the natural floodway, and that such is documented by a Registered Professional Engineer or similarly qualified professional.

- B. Permanent structures, parking lots, and other impervious surfaces, except boat docks, boat slips, ramps, or marinas, or other water dependent uses, shall observe a minimum setback of sixty (60) feet from the documented 1986 High Water Mark in all Residential and Farm-Forest Districts, and twenty-five (25) feet in Commercial and Industrial Districts. Except for a potential interference in floodways, the setbacks of this paragraph shall not apply to drains or intermittent streams. An intermittent stream is one which holds water at some time during each year, but for not more than eight (8) months. Where the shoreline of a lake, river, or stream is altered by any means, after the effective date of this ordinance, the setback shall be measured from the altered shoreline location or the documented 1986 High Water Mark, whichever is farther inland.
- C. Ground decking and patios without railings and which are less than eighteen (18) inches above the natural grade at the deck building line may extend into the setback area, but not nearer to the shoreline than twenty-five (25) feet. Railed decks and enclosed patios over four (4) feet high shall observe the setback lines for main buildings, in the applicable zoning district. Walkways and pathways, if not wider than six (6) feet, and if perpendicular to the shoreline, are not restricted by this Section.
- D. Boat well covers may be permitted by the Zoning Administrator over existing boat wells approved by the state agency having jurisdiction provided that the structure is open-sided, has no greater than eight (8) foot side posts at the eave measured from the grade of the ground above the river, has an overall height not greater than twelve (12) feet measured from the finished grade to the peak, the structure meets the side yard setback standards of the zoning district, that it extends no greater than three (3) feet on either the sides or the land side of the boat well, and that it is located within the Crooked River of the Inland Waterway. The structure may not extend over the navigable portion of the river. Such structures are not subject to the waterfront setback but evidence that the existing boat well was established legally must be provided before the zoning permit may be issued.

**22.11.3 Other Environmental Rules**

Any filling or construction within flood plains or wetlands, or other environmental areas protected by State Law, or other laws, shall require appropriate permits from the government unit or agency having jurisdiction.

**22.11.4 Schedule of Regulations**

Property boundary setbacks contained in [Articles 4-17](#) are superseded by this [Section 22.11](#) for parcels bordering or containing surface waters. In case of a conflict in applying setbacks, the Ordinance Section with the deeper setback shall apply.

**Section 22.12 Yard Sales**

- A. Intent: The intent of this Section is to eliminate perpetual, prolonged and extended yard sales in residential areas. Such sales, if continued indefinitely, tend to become retail businesses in

1 Intent & Authority	2 Definitions	3 Districts & Map	4 -17 Specific Districts	18 Land Use Matrix	19 Schedule of Regulations	20 Plots Plans & Site Plan Review
21 Special Land Uses	22 General Provisions	23 Nonconformities	24 General Exceptions	25 Zoning Board of Appeals	26 Supplemental Regulations	27 Administration

General Provisions

residential areas and zones and create a nuisance. No Zoning Permit is required; however, the following shall apply to all residences in all Zoning Districts.

- B. Not more than six (6) yard sales shall occur on any one (1) premise in any one (1) calendar year.
- C. Not more than one (1) yard sale shall occur in any one (1) month.
- D. Yard sales may be conducted for a duration not to exceed four (4) consecutive days.
- E. **Exceptions**
  - 1. Any person selling or advertising for sale an item or items of personal property which is specifically named or described in the advertisement.
  - 2. Sales by a bona fide charitable, eleemosynary, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof to establish the exemption under this subsection shall be on the organization or institution claiming such exemption.
  - 3. Any public auction having a duration of no more than four (4) days and conducted by a licensed auctioneer.

**Section 22.13 Subdivision and Site Unit Condominium Open Space Plans**

Subject to a Public Hearing, the Emmet County Planning Commission may approve Open Space Subdivision and Site Unit Condominium Plans intended to preserve on-site open space, to protect natural resources, and to encourage site planning concepts that interrelate building sites and resource amenities in a freer pattern than that permitted by conventional subdivision techniques. No such plan shall be approved without first considering the recommendations of the affected Township Board and/or that Township's designated review agency.

In reviewing and approving the Open Space Subdivision and Site Unit Condominium Plans, the following requirements shall apply as permitted modifications to the standards as outlined in the **SCHEDULE OF REGULATIONS**:

- A. Provided the densities stated on the **SCHEDULE OF REGULATIONS** are maintained (allow for the initial lot size reduction for utilities), the lots used for dwelling purposes may be reduced as stated in the following Table. Corresponding reductions on lot width may also be permitted, but no lot shall be less than 80 feet wide.

Open Space Lot Zoning variances Minimum Lot Sizes by Available Community Utilities			
DISTRICTS	No Utilities Health Department Approval Required	Water or Sewer Services	Both Water and Sewer Services
R-1, R-2 and RR	None	12,000 square feet	9,600 Sq. Feet
SR, FF-1, FF-2	20,000 Sq. Feet	12,000 Sq. Feet	9,600 Sq. Feet

- B. Under the provisions of this Section for each square foot of land gained within a subdivision through the reduction of lot size below the minimum requirements as outlined in the **SCHEDULE OF REGULATIONS**, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision.

The land area necessary to meet the minimum requirements of this Section shall be of a useable shape and dimension and further shall not include bodies of water, swamps or lands that normally would not be developed. The entire area may, however, be located in a flood plain.

- C. Under this planned unit approach, the developer shall dedicate the total open space at the time of filing of the final plat on all or any portion of the plat, and indicate the use on the Preliminary Plan.

**Section 22.14 Access Management Overlay**

**22.14.1 Intent.**

The provisions set forth are intended to establish minimum requirements for access to property and other elements of site design to improve safety and enhance aesthetics along the US-31, US-131, and M-119 corridors in Bear Creek Township. The purposes of these requirements are to:

- A. Recognize that the proliferation of direct access into properties, specifically high-traffic-generating nonresidential uses (such as a gas station, fast-food restaurant, auto wash and similar uses), has long-term traffic flow consequences, as it creates traffic conflict areas due to a stream of slowing, stopping, turning, entering and exiting vehicles;
- B. Provide for safe, efficient and continuous pedestrian accommodations along US-31, US-131 and M-119 corridors;
- C. Minimize disruptive and potentially hazardous traffic conflict areas by reducing the frequency of direct access points to US-31, US-131, and M-119; and to provide efficient spacing standards between access points and intersections to separate conflict areas;
- D. Separate traffic conflict areas by requiring separation of direct access points to US-31, US-131 and M-119, and by encouraging and requiring consolidation of existing direct access point when redevelopment is contemplated;
- E. Require, wherever possible, coordinated/shared access among several developments



or redevelopments;

- F. Provide reasonable access to properties, though the access may not always be direct access; and
- G. Implement the recommendations of the Bear Creek Township, Emmet County, Access Management Plan adopted August 2, 2018.

**22.14.2. Applicability.**

Access Management Overlay Zone

The US-31 corridor is defined as those properties that abut the highway right-of-way either side of US-31 in Bear Creek Township of Emmet County between Division Road and Graham Road to a depth of 350 feet. The M-119 corridor is defined as those properties that abut the highway right-of-way either side of M-119 in Bear Creek Township of Emmet County between US-31 and Powell Road to a depth of 350 feet. The US-131 corridor is defined as those properties that abut the highway right-of-way either side of US-131 in Bear Creek Township between Bear River Road to the City of Petoskey city limits to a depth of 350 feet. The following regulations supersede otherwise applicable regulations of the specific districts beneath the overlay zone.

**22.14.3. Process requirements.**

- A. Parcels with access to the US-31, US-131 or M-119 right-of-way shall be subject to access approval from the **Michigan Department of Transportation**. The Planning Commission shall review the access elements of a site plan and shall coordinate with the **Michigan Department of Transportation** prior to a final decision on a particular site plan or development application. The Planning Commission shall not take action on an application without first consulting the Michigan Department of Transportation.
- B. When a site plan or other approval has been granted and an access permit issued by the Michigan Department of Transportation, said site plan of access shall not be altered without a new application for access following the original approval process.
- C. Failure to begin construction within two years of the approval date of the site plan shall void approval, and a new application process is required.
- D. Except for shared driveways, existing driveways that do not conform to the requirements of this section shall be closed or modified to conform to this section when site plan approval is following approval by the Planning Commission. The Planning Commission may permit exceptions if it determines that existing site constraints would make conformance to this section unreasonable or impossible, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with the requirements of this section. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, existing access configurations, site topography, natural features, external and internal site circulation, recommendations from the **Michigan Department of Transportation**, and others as deemed appropriate. Required improvements may include removal or reconfiguration of one or more existing access points and establishing cross access to a neighboring property.
- E. An applicant shall be required to secure applicable permits and other applicable approvals

1 Intent & Authority	2 Definitions	3 Districts & Map	4 -17 Specific Districts	18 Land Use Matrix	19 Schedule of Regulations	20 Plots Plans & Site Plan Review
21 Special Land Uses	22 General Provisions	23 Nonconformities	24 General Exceptions	25 Zoning Board of Appeals	26 Supplemental Regulations	27 Administration



from the **Michigan Department of Transportation** and other entities in addition to receiving site plan and other applicable approvals from the County.

**22.14.4. General Access Management Standards.**

**A. Provide Reasonable Access**

Recognize that property owners have an inherent right to access public highways and roads with reasonable, indirect access encouraged.

**B. Design for Efficient Access**

Driveway design criteria shall promote safe and efficient ingress and egress.

**C. Separate and Limit the Types of Conflict**

Reduce the frequency of conflicts or reduce the area of conflict at some or all driveways by limiting or preventing certain kinds of maneuvers.

**1. Reduce the Number of Driveways.** For new developments or redevelopments that will generate 500 or more trips based on the ITE Trips Generation Manual, a traffic impact study shall be required by the Planning Commission which would demonstrate the type of access that best suits the corridor and traffic flow. Landowners may be required to locate or relocate driveways on a side road or shared with adjacent uses.

**2. Driveway Spacing from Other Driveways.** Adequate driveway spacing simplifies driving by reducing the amount of information to which a driver must process and react. Generally, the greater the speed along the roadway the greater the driveway spacing should be. The spacing standards recommended are based on MDOT guidelines given a measured average speed for unsignalized areas are as follows:

Posted Speed Limit (mph)	Minimum Driveway Spacing (feet)
25	130
30	185
35	245
40	300
45	350
50+	455

**3.** It is understood that in the intensely developed areas, the spacing will be difficult to achieve even as sites redevelop. The primary goal in those areas is to aggressively pursue the removal of unnecessary driveways whenever possible for improvement. In most of the undeveloped areas, spacing of driveways should be at least 250 feet apart. In all cases driveways should be relocated to a minor side road that meets current road standards when available.

**D. Driveway Spacing from Intersections**

Locating a driveway away from the operational area of a signalized intersection decreases

the potential for congestion and crashes for both through traffic and vehicles using that driveway. Adequate spacing between driveways and unsignalized intersections can reduce confusion that otherwise requires drivers to watch for ingress and egress traffic at several points simultaneously while controlling their vehicle and monitoring other traffic ahead and behind them. Design standards include:

Posted Speed Limit (mph)	Minimum Spacing for a Full Movement Driveway or other Access Point (feet)
30	185
35	245
40	300
45	350
50 and above	455

**E. Driveway Alignment**

To prevent left turn conflicts, driveways shall be aligned with those across the road or offset at a desirable distance to prevent turning movement conflicts based on the following design criteria.

Posted Speed Limit (mph)	Desirable Offset Distance Between Access Points on Opposite Sides of the Roadway Center-to-Center Access on an Undivided Highway (feet)
25	255
30	325
35	425
40	525
45	630
50 and above	750

**F. Shared Driveways**

Sharing or joint use of a driveway by two or more property owners is encouraged. This will require a written easement recorded with the Emmet County Register of Deeds from all affected property owners during the site plan approval process. Where a future shared access is desired, the developer should submit an easement that will be provided to future adjacent uses.

**G. Alternative Access Points - Service Drives and Frontage Roads**

Frontage drives and rear service drives reduce conflict points while preserving the property owner’s right to reasonable access. The following design standards shall apply when applicable to the subject property:

1. Alternative access points such as service drives or frontage roads may be required. And, where parcels have frontage on the highway or road and also have frontage on a side

- road, the access shall be provided from the side road.
2. Certain turning movements may be limited, especially left turns.
  3. In areas within one-quarter mile of existing or future traffic signal locations, access to individual properties should be provided via these methods rather than by direct connection to a major arterial.
  4. In areas where service drives are proposed or recommended, but adjacent properties have not yet developed, the site should be designed to accommodate a future service drive, with access easements provided.
  5. Vehicle storage shall be provided on the property which allows stacking space areas for vehicles provided at the access points. This storage needs to be deep enough to accommodate expected vehicle queues, thereby reducing the chance of blocking internal circulation on the service drive. The correct storage is also needed to reduce the possibility of entering vehicles backing up into the main road due to internal congestion.
  6. The correct location and maintenance of traffic control signs and pavement markings are essential for a smooth operation of the driveways.
  7. There are several factors that affect the determination of the best alignment and depth of a service drive. Those factors include the existing highway or road right-of-way, the depth of the adjacent parcels, and the location of existing buildings in partially developed corridors.
    - i. For drives providing access to two small commercial uses, the storage shall be at least 40 feet.
    - ii. For drives providing access to more than two small commercial uses, the storage shall be at least 60 feet and potentially much more depending upon the trip generation characteristics of the existing/proposed long term land uses to be served.
  8. Rear service drives are preferred. Rear service drives also have the added benefit of facilitating integrated access and circulation within the development. On larger sites, these rear service drives can be designed to function like roads that would interconnect other uses.
  9. Service drives are constructed and maintained by the property owner or an association of adjacent owners. The service drive shall be constructed to private road standards for cross section, materials, design, and alignment. The design is often predicated upon the type and size of vehicles it will need to accommodate, including delivery trucks. Since, these internal roads will be serving several uses with numerous driveways, additional uses such as parking (temporary or otherwise) shall not be allowed.

**H. Sight Distance**

Because of sight distance limitations on some of the highways and roads, there are limited locations for optimum driveway placement. The minimum sight distances required for a vehicle to enter or exit the traffic stream is determined by MDOT and/or the Emmet County Road Commission at the time of an application for a driveway permit. The Planning Commission shall coordinate with MDOT and/or the County Road Commission, as appropriate at the time of site plan review to ensure that the driveway is sited in the best possible location as related to sight distance if no other access can be attained. This may involve shared driveways or side street access. It may also involve limited turning movements in or out of the driveway if a driveway must be located in a place where sight distance is less than adequate.

**22.14.5 Exceptions**

It is declared that the design of any given development plan is strongly influenced by the specific characteristics of each project area site, and that a universal application of adopted design standards may not be in the best interest of the community and/or applicant. The Planning Commission is therefore granted authority to modify and/or alter the standards at the public meeting. Any modifications are subject to a showing that the strict application of those standards would serve no good or practical purpose.

In granting any modification to these standards, it shall be determined that a better development plan can be put into place, particularly in terms of the impact on the adjacent properties and on the community as a whole. Modifications shall not be granted if they are found to be contrary to the purposes and intent of this ordinance or contrary to any applicable county or township master plan.

# Article 23

## General Provisions: Nonconformities

<u>Section</u>	<u>Name</u>	<u>Pg</u>	<u>Section</u>	<u>Name</u>	<u>Pg</u>
23.00	Intent	23-1	23.02	Nonconforming Lots	23-1
23.01	Board of Appeals Variance: Nonconformities	23-1	23.03	Nonconforming Uses of Land and/or Structures	23-1

### Section 23.00 Intent

It is recognized that there exists within the districts established by this Ordinance or by amendments, lots, structures and uses of land, which were lawful before this Ordinance was adopted or amended, which would be prohibited or restricted under the terms of this Ordinance or future amendment. These uses are referred to as nonconformities and may continue until they are discontinued, damaged, or removed.

It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their survival.

### Section 23.01 Board of Appeals Variance: Nonconformities

Although it is the intent of this ordinance to restrict the expansion and perpetuation of nonconforming uses of land and/or buildings, the Board or Appeals, subject to a Hearing, may allow an expansion or enlargement, if it is conclusively shown that such extension or enlargement:

- A. Will not further reduce the value or otherwise limit the lawful use of adjacent premises.
- B. Will essentially keep the character and environment of abutting premises.
- C. Will not materially increase or perpetuate the nuisance aspects of the use upon adjacent uses (noise, glare, traffic congestion and land over-crowding and related).

### Section 23.02 Nonconforming Lots

A permitted single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, even though such lot may fail to meet the district requirements for area or width or both. Yard dimensions and other requirements not involving area or width or both shall conform to the regulations of the district in which such lot is located. The Board of Appeals shall consider and act on any non-use zoning variance from yard requirements.

### Section 23.03 Nonconforming Uses of Land and/or Structures

Except as provided in [Section 23.01](#), the following shall apply:

#### 23.03.1 Expansion of a Nonconforming Use

- A. No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date.
- B. No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, unless such action will conform with the standards of this Zoning Ordinance.
- C. Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.

### **23.03.2 Alteration of Nonconforming Structure**

No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity.

### **23.03.3 Removal or Destruction of a Nonconforming Structure**

- A. Should such structure be destroyed by any means to an extent of more than eighty (80) percent of the usable cubic space or floor area of the principal structure, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- B. Removal or destruction of the use and/or structure shall eliminate the nonconforming status of the land (premises).

### **23.03.4 Maintenance of a Nonconforming Structure**

- A. Nothing in this Ordinance shall prevent such necessary repairs, reinforcement and incidental alterations of a nonconforming structure existing on the effective date of this Ordinance as may be necessary to secure a reasonable advantageous use thereof during its natural life nor shall any provision of this ordinance prevent compliance with the provisions of any Building Code in effect relative to the maintenance of structures.
- B. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official or to comply with barrier-free requirements of the Americans with Disabilities Act. Nothing in this ordinance shall prevent any alteration, improvement or repair as required by the Health Department as necessary to protect the public health, safety, and welfare.

### **23.03.5 Change of Nonconforming Use**

- A. Any nonconforming use of a structure, land or structure and land, may be changed to another nonconforming use if the proposed use is equally or more appropriate to the district than the existing nonconforming use.

- B. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall conform to the regulations for the district in which such structure is located and the nonconforming use may not be resumed.
- C. Changes in tenancy and ownership of nonconforming uses and structures is permissible, provided there is no change in the nature or character of such nonconforming use or structure.

### **23.03.6 Abandonment of Nonconforming Use**

- A. Any building, structure or land that has been used for nonconforming purposes but which has not intended to be continued as a nonconforming use by the owner shall not be used unless it conforms to the provisions of this Ordinance. The owners intent to no longer continue use of the nonconforming use shall be established by a preponderance of the following points of physical evidence:
  - 1. Utilities have been disconnected;
  - 2. If there were signs, the signs have been removed or have fallen into disrepair;
  - 3. Fixtures within and outside the building have been removed;
  - 4. The property falls into disrepair;
  - 5. U.S. Mail delivery has been ended or mail is forwarded to another address;
  - 6. The classification of the property for tax purposes has been changed to reflect another use; and
  - 7. Other similar changes to the nonconforming building or use.
- B. Action to find a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:
  - 1. Property held in Probate;
  - 2. Insurance settlement in dispute; or
  - 3. Criminal investigation.

# Article 24

## General Exceptions

<u>Section</u>	<u>Name</u>	<u>Pg</u>
24.00	Area, Height and Use Exception	24-1

### Section 24.00 Area, Height and Use Exception

The regulations in this Ordinance shall be subject to the following interpretations and exceptions:

#### 24.00.1 Essential Services

Essential Services shall be permitted as authorized and regulated by law and other Ordinances of the County, it being the intention hereof to exempt such essential services from the application of this Ordinance.

#### 24.00.2 Voting Place

This Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a public election.

#### 24.00.3 Commercial Farms

This Ordinance shall not be construed to interfere with commercial farm operations as defined in this ordinance and protected under the [Michigan Right To Farm Act \(Act 93 of 1981, as amended\)](#).

#### 24.00.4 Height Limit

Height limitations shall not apply to farm silos, chimneys, church spires or public monuments; provided, that the Planning Commission may specify a height limit for any such structure when such structure requires authorization as a Special Land Use.

#### 24.00.5 Yard Regulations

When yard regulations cannot reasonably be complied with, as in the case of a planned multiple family development, or where their application cannot be determined on lots existing and of record at the time this Ordinance became effective and on lots of peculiar shape, topography, or due to architectural or site arrangements, such regulations may be modified as determined by the Board of Appeals.

#### 24.00.6 Projections Into Required Open Spaces



- A. Outside stairways, fire escapes, vestibules, balconies, bay windows and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.
- B. For lots which have less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally demountable.
- C. For residential uses, unenclosed paved areas, patios and other surfaced areas may occupy a required yard.

# Article 25

## Zoning Board of Appeals

<u>Section</u>	<u>Name</u>	<u>Pg</u>	<u>Section</u>	<u>Name</u>	<u>Pg</u>
25.00	Creation and Membership	25-1	22.04	Jurisdiction	25-2
25.01	Meetings	25-1	22.05	Board Review	25-4
25.02	Appeal	25-1	22.06	Notice of Hearing	25-4
25.03	Stay	25-2	22.07	Miscellaneous	25-4

### Section 25.00 Creation and Membership

There is established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in [2006 PA 110, as amended](#) and in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done. The Board shall consist of the following: five (5) regular members, and up to two (2) alternate members:

- A. The first member shall be a member of the County Planning Commission.
- B. The second member shall be an elector from the unincorporated area of the County appointed by the County Board of Commissioners for a period of three (3) years.
- C. And, the third, fourth and fifth members shall be selected in the same manner as the second member to serve for a period of three (3) years; however, no elected officer of the County, nor any employee of the County Board of Commissioners may serve simultaneously as a member or employee of the Board of Appeals.
- D. The alternate member(s), if appointed, shall serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings, or for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest.

### Section 25.01 Meetings

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All Hearings conducted by the Board shall be open to the public and held in compliance with [1976 PA 267, as amended](#). The Board shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each motion, or if absent or failing to vote, indicating the fact; and shall file a record of its proceedings in the Office of County Clerk, and shall be a public record.

### Section 25.02 Appeal

- A. An appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance may be taken to the Board of Appeals within such time as shall be prescribed by the Board by a general rule. Such appeal may be taken by a person

aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. The appellant shall file with the Board, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds thereof.

- B. The Zoning Administrator shall transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a motion either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from.
- C. An owner of property, or his authorized agent, shall not file an appeal for a zoning variance affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Board determines that: conditions affecting the property have changed substantially, or the nature of the request has changed substantially from the date of the previous petition.

### **Section 25.03 Stay**

An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the Zoning Board of Appeals or circuit court.

### **Section 25.04 Jurisdiction**

The Board of Appeals shall have the following powers and it shall:

#### **25.04.1 Administrative Appeals**

Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other person in the administration or enforcement of this Ordinance. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination on appeal, and shall have the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.

#### **25.04.2 Interpretations**

- A. Interpret provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one (1) meaning. In deciding upon the request, the Board shall insure that its interpretation will carry out the intent and purpose of this Ordinance.
- B. Determine the precise location of boundary lines between zoning districts.
- C. Determine the classification of any use of land not specifically mentioned as a principal use permitted, principal use permitted subject to special conditions, or special or

conditional land use, so that it conforms to a comparable permitted use of land in accordance with the purpose and intent of each District.

### **25.04.3 Dimensional Variance**

- A. Permit zoning variances from the strict requirements of this Ordinance, so that the spirit of the Ordinance is observed, public safety is secured, and substantial justice done, but only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
1. That the practical difficulty was not created by an action of the applicant or property owner (self-created); and either existed at the time of adoption of the requirement from which the zoning variance is requested, or is necessary as the result of governmental action such as a road widening.
  2. That the strict compliance with the regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
  3. That the requested zoning variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
  4. That the requested zoning variance will not cause an adverse impact on surrounding property values, or the use and enjoyment of property in the neighborhood or zoning district.
  5. That the zoning variance shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan

#### **B. Conditions**

The Zoning Board of Appeals may attach reasonable conditions with the approval of a variance. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity. Any conditions imposed, however, shall meet all of the following requirements:

1. Be designed to protect natural resources and the health, safety, and welfare of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of police power, and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to insure compliance with those standards.

#### **25.04.4 Temporary Use Permits**

Permit a temporary use or building for a period not to exceed two (2) years, but which may be reviewed for renewal, upon request, for not more than two (2), two-year periods each, but not more than six (6) years total.

#### **25.04.5 Limitations of Authority**

Nothing shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance or the Zoning Map, such power and authority being reserved to the County Board of Commissioners in the manner provided by law.

### **Section 25.05 Board Review**

The Zoning Board of Appeals shall begin review of the Case at its next regularly scheduled meeting provided a complete Application is submitted at least twenty-eight (28) days before that meeting. A completed application shall include: 1) the application form, 2) property owner authorization; 3) surveys, plans, or other information as may be required by the Board for the proper consideration of the matter, nine (9) copies of each document, and 4) applicable fees.

### **Section 25.06 Notice of Hearing**

The Board of Appeals shall make no recommendation except upon receipt of written request as described in [Section 25.05](#) above. Upon receipt of a written request, the Zoning Board of Appeals shall conduct a Public Hearing and notices shall be provided as required by [2006 PA 110](#).

### **Section 25.07 Miscellaneous**

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than two (2) years, unless a Zoning Permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

# Article 26

## Supplemental Regulations: Specified Uses

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## Section 26.00 General

In every case the uses referred to shall be prohibited from any Districts not specifically listed. These uses require special consideration since they may service large areas, require sizeable land areas and/or may create problems of control with reference to abutting use Districts.

## Section 26.01 Wireless Communications Equipment (WCE) and Wireless Communications Support Structures (WSS)

### R-1, R-2, B-1, B-2, B-3, I, FF-1, FF-2

#### 26.01.1 Approval Process

##### A. Co-location

Pursuant to [Section 3514\(9\) of P.A. 110 of 2006, as amended](#), co-location is permitted on existing and approved Wireless Communications Support Structures without a zoning permit.

##### B. Wireless Communications Support Structures

A Special Land Use permit is required for WSS using the following approval process.

1. An application for Special Land Use approval of WSS shall include all information required by [Article 20 \(Site Plan Review\)](#).
2. After an application for a Special Land Use approval is filed, the Zoning Administrator shall determine whether the application is administratively complete. The application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.
3. If, before the expiration of the 14-day period under subsection 2, the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection 2 is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification.
4. The Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

- C. WCE and WSS may be permitted by the Zoning Administrator in any zoning district if located on an existing building or structure, or is otherwise hidden from view by being incorporated in an existing building, or if it co-locates on an existing tower, and the proposed height does not require lighting by FCC and/or FAA regulations.

### **26.01.2 Standards: All Allowed Districts**

#### **A. Setback Requirements**

1. WCE and WSS shall be setback not less than a distance equal to the height of the tower measured from the base of the tower to all points on each property line.
2. The setback standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guying/ anchoring systems are certified by a Michigan Registered Professional Engineer as being safe from the hazard of falling onto public roads or adjoining properties. All guy wires/cables and anchors shall meet the zoning setback standards of the district.

#### **B. Lighting**

In order to protect the rural dark sky environment and reduce lighting confusion for approaching aircraft, all towers shall be designed or painted to be without lighting. If the FAA requires lighting, the applicant shall apply to the FAA for painting requirements and red lighting. Intermittent strobes shall be a last option and only then with written documentation from the FAA certifying its necessity.

#### **C. Devices Appended to Tower**

No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.

### **26.01.3 Standards in B-2, I, FF-1 and FF-2**

- A. Wireless Communication Facilities may be permitted by the Planning Commission after a public hearing, if it is found that there is no reasonable opportunity to locate per **subsection 26.01.1 (A)** above. Information must be submitted to show efforts made to screen, co-locate or place such facilities on an existing structure. The proposed tower must also meet the following conditions and standards:
1. The proposed height meets FCC and/or FAA regulations.
  2. Towers must be equipped with devices to prevent unauthorized climbing.
  3. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting and/or concealing the tower in a "stealth" design.
  4. New towers should be engineered as appropriate for co-location of other antennae.



Wireless communication facilities shall be required to co-locate, unless there are proven technical limitations related to tower strength or signal interference.

5. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
- B. Wireless communication facilities may be approved, by the Planning Commission, for locations in R-1 and R-2 Districts, subject to the following conditions and findings:
1. All reasonable measures to co-locate or locate on or adjacent to an existing structure must be documented; and such location proves infeasible.
  2. The type of facility is a pole, and not a tower.
  3. All reasonable efforts to locate in Commercial or Farm Forest zones have been made and are proven to be infeasible, unavailable, or not a compatible land use as considered by the Planning Commission.
  4. The structure shall not exceed a height of 115 feet, including the antenna, and no lights are used or required.
  5. The applicant must find a location, and/or use construction materials that will blend the pole into the physical or natural landscape in such a manner as to be compatible with the surrounding neighborhood, and so as not to be a dominant structural feature in the neighborhood skyline. The Planning Commission finds that the structure or planned site, does not change the character of the residential area.
  6. The applicant proposes, or can incorporate innovative design and construction methods (or materials), and by locating in a Residential District, the applicant uses poles that are lower in height and/or narrower in profile than towers.
  7. The Planning Commission finds that a location in a Residential District is the best overall alternative considering all factors of land use, visibility, and satisfactory signal coverage and that the proposed pole complies with the standards of Item (B)(2) above.
- C. All wireless communication facilities shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used).

## **Section 26.02 Individual Television/Radio Reception Tower**

### **R-1, R-2, RR, SR, B-1, B-2, B-3, P-T, I, FF-1, FF-2, FR**

The following standards will be required for any other private or individual television/radio

reception tower:

- A. An individual tower may be permitted in any zoning district by the Zoning Administrator subject to the following conditions:
  1. The tower shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines
  2. The operation of any such facilities shall not interfere with normal radio/television reception in the area
  3. The tower does not exceed a height of sixty (60) feet above the natural grade.
- B. An individual tower that exceeds sixty (60) feet above the natural grade may be approved by the Planning Commission, after a public hearing, if the tower meets the conditions set forth in (A) (1) and (2) above, and if it is determined that the tower height in excess of sixty (60) feet above the natural grade is necessary to reasonably accommodate amateur communications.

### Section 26.03 Wind Energy Systems (WES'S)

#### R-1, R-2, RR, B-1, B-2, B-3, P-T, I, FF-1, FF-2, FR

##### 26.03.1 On-site Wind Energy Systems (WESs or WES singular) Up to Sixty (60) Feet

- A. On-site WESs may be located and permitted in all zoning districts except SR-1 and SR-2 Scenic Resource as an accessory use only if all of the following standards are met:

##### **B. Zoning Administrator Review & Standards**

The Zoning Administrator shall review all applications for on-site WESs. WESs that meet all of the following standards may be approved by the Zoning Administrator.

1. **Minimum Site Area.** The minimum site area for an on-site WES shall be as necessary to meet required setbacks and other applicable standards of this ordinance.
2. **Setbacks.** All on-site WESs shall be setback a distance equal to one time the height of the WES from the property line of the property on which the WES is located.
3. **Maximum height.** The maximum height of an on-site WES shall not exceed sixty (60) feet from the ground to the top of the blade or tower whichever is greater.
4. **On-site WESs.** On-site WESs are intended to primarily serve the needs of the consumer on the site of the WES and is designed primarily to serve the needs of a home, farm, or business. If the total height exceeds sixty (60) feet, a Special Use Permit is required and must follow the procedures in [Article 21](#) of this zoning ordinance.

5. **Maximum Noise Levels.** Any proposed WES shall produce sound pressure levels that are no more than identified in the table below, as measured on the dB(A) scale at the closest property line of the subject property or the lease unit boundary.

Zoning District	Maximum dB(A) level
R-1, R-2, RR, FR-1, FR, B-1, B-2, B-3, I	40
FF-2	35

A manufacturer’s specification sheet or similar data shall be provided documenting decibel levels.

**26.03.2 On-site Wind Energy Systems over Sixty (60) Feet and Wind Site Assessment Systems**

- A. On-site WESs over sixty feet (60’) over and WSASs shall require a Special Use Permit and may be located and permitted in all zoning districts except SR-1 and SR-2 Scenic Resource only if all of the following standards are met:

**B. Planning Commission Review & Standards**

The Planning Commission shall review all applications for WESs over sixty feet (60’) and/or WSASs. Notification of the review shall be sent to all property owners within 300’ of the property boundary where the WES and/or WSAS is proposed. WESs and/or WSASs may be approved by the Planning Commission if the following standards are met.

1. **Minimum Site Area.** The minimum site area for a WES shall be as necessary to meet required setbacks and any other applicable standards of this ordinance.
2. **Setbacks.** All WESs shall be set back a distance equal to the height of the WES from the property line of the property on which the WES is located.
3. **Maximum Height.** The maximum height for on-site WESs or WSASs shall be one hundred fifteen feet (115) feet in residential districts or one hundred ninety nine (199) feet in non-residential districts measured from the ground to the top of the blade or tower, whichever is greater. The Planning Commission, following a duly noted Public Hearing and notification of every land owner within 300’ of the parcel where the on-site WES or WSAS will be located, may approve an increased height for on-site WESs and WSASs, if the following conditions are met:
  - a. The increased height will result in the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity and/or reduce turbulence.
  - b. The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the WES given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission

shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not use current commercial technologies.

- c. The increased height will not result in increased intensity of lighting on the tower due to FAA requirements.
4. **Minimum Rotor Wind Vane or Blade Clearance.** The lowest point of the arc created by rotating wind vanes or blades on a WES shall be no less than sixteen (16) feet. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.
5. **Maximum Noise Levels.**

- a. In the FF-1 Farm and Forest and the Industrial Zoning Districts:

From 6:00 AM until 10:00 PM, any proposed WES shall produce sound pressure levels that are no more than forty (40) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or the lease unit boundary. If the ambient sound pressure level exceeds forty 40 dB(A), the standard shall be the same as the ambient dB(A) plus five (5) dB(A). From 10:00 PM until 6:00 AM, any proposed WES shall produce sound pressure levels that are no more than forty (40) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or lease unit boundary. If the ambient sound pressure level exceeds forty (40) dB(A), the standard shall be the same as the ambient dB(A) plus zero (0) dB(A). A manufacturer's specification sheet or similar data shall be provided documenting decibel levels.

- b. In the High Amenity Zones (FF-2 Farm and Forest Zoning District):

From 6:00 AM until 10:00 PM, any proposed WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or the lease unit boundary. If the ambient sound pressure level exceeds thirty-five 35 dB(A), the standard shall be the same as the ambient dB(A) plus five (5) dB(A). From 10:00 PM until 6:00 AM, any proposed WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or lease unit boundary. If the ambient sound pressure level exceeds thirty-five (35) dB(A), the standard shall be the same as the ambient dB(A) plus zero (0) dB(A). A manufacturer's specification sheet or similar data shall be provided documenting decibel levels.

- c. Determination of Ambient Noise Levels; Methodology for Measurement of WES Noise; Methodology for Assessment of WES Noise:

The "South Australia EPA Wind farms environmental noise guidelines" adopted by reference shall be the document used to determine the Ambient Noise Levels. Ambient noise levels shall be captured at the times of the year when background noise levels are lowest at the location where the WES is to be constructed. The Planning Commission may accept more current methodology if a determination is made by the County's consultant that the methodology is as clearly defined and specific to wind energy systems as the "South Australia EPA Wind farms environmental noise guidelines" dated July 2009. These reports must be prepared by a Qualified Acoustics Professional.

6. **Maximum Vibrations.** Any proposed WES shall not produce vibrations humanly perceptible beyond the property on which it is located.
7. **Shadow Flicker.** The facility shall be designed such that shadow flicker will not be visible on, or in, an existing off-site dwelling. Shadow flicker expected to be visible on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:
  - a. The flicker will not exceed 30 hours per year; and
  - b. The flicker will not be visible within 100 feet from a structure designed for human occupancy; and
  - c. The flicker will not be visible on a county primary road, or state or federal highway.
8. **Transmission Lines.** The on-site electrical transmission lines connecting the WES to the public utility electricity distribution system shall be located underground.
9. **Interference with Commercial/Residential Reception.** WESs shall be constructed and operated so that they do not interfere with television, microwave, navigational, or radio reception.
10. **Landscaping.** Existing natural land forms on the site which effectively screen the base of the WES from adjacent property used for residential purposes shall be preserved to the maximum extent possible.
11. **State or Federal Requirements.** Any proposed WES shall meet or exceed any standards and regulations of the [FAA](#), [the Michigan Public Service Commission](#), [National Electric Safety Code](#), and any other agency of the state or federal government with the authority to regulate WESs or other tall structures in effect at the time the permit is approved.
12. **Safety.** All WESs shall have automatic braking, governing, or a feathering system

to prevent uncontrolled rotation or over speeding. All WESs shall have lightning protection.

13. **Visual Impact.** All WESs shall meet the following requirements:

- a. Each WES shall either be white or maintain a galvanized steel finish.
- b. Each WES shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
- c. Each WES, except for anemometer towers, shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not use guy wires. Anemometer towers may, for up to two (2) years, be lattice type towers and may use guy wires.

The Planning Commission may waive the requirement for a monopole or monotube on sites with a deep use setback and if the tower is effectively screened from public view and neighboring properties.

- d. Each WES shall be designed to aesthetically complement the color and design of any existing WES within a one-mile radius.)

14. **Complaint Resolution:** The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Emmet County from acting on a complaint. Should the complaint involve sound levels, then the methodology for assessment, measurement, and determining ambient noise levels shall follow the "South Australia EPA Wind farms environmental noise guidelines" dated July 2009, adopted in [Section 26.03.3](#) following this section.

15. **Unintended/misrepresented nuisances:** Following construction and operation of the WES, should shadow flicker, noise levels, or vibrations exceed those projected by the developer, the WES shall not be operated until such nuisance is eliminated.

### 26.03.3 Utility Grid Wind Energy System(s)

Utility Grid WESs applications and projects may be considered within the I-Industrial or FF-1 and FF-2 Farm and Forest Zoning Districts and shall comply with the following standards:

A. **Planning Commission Review**

The Planning Commission shall review all applications for Utility Grid WES(s). Notification of the review shall be sent to all property owners within 300' of the property boundary where the Utility Grid WES is proposed.

**B. Minimum Site Area and Location**

The minimum site area for a WES shall be as necessary to meet required setbacks and any other applicable standards of this ordinance. Utility Grid WESs may be permitted in the FF-1, FF-2 Farm and Forest, or FR Forest Resource zoning districts.

**C. Setbacks**

All Utility Grid WESs shall be set back a distance equal to the height of the WES from the property line of the property on which the WES is located or from the lease unit boundary, including public rights-of-way.

**D. Height**

The minimum vertical blade tip clearance from grade shall be forty (40) feet for a WES employing a horizontal axis rotor. The maximum height for Utility Grid WESs and WSASs is four hundred (400) feet.

**E. Maximum Noise Levels.****1. In the FF-1 Farm and Forest and the Industrial Zoning Districts:**

From 6:00 AM until 10:00 PM, any proposed WES shall produce sound pressure levels that are no more than forty (40) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or the lease unit boundary. If the ambient sound pressure level exceeds forty (40) dB(A), the standard shall be the same as the ambient dB(A) plus five (5) dB(A). From 10:00 PM until 6:00 AM, any proposed WES shall produce sound pressure levels that are no more than forty (40) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or lease unit boundary. If the ambient sound pressure level exceeds forty (40) dB(A), the standard shall be the same as the ambient dB(A) plus zero (0) dB(A). A manufacturer's specification sheet or similar data shall be provided documenting decibel levels.

**2. In the High Amenity Zones (FF-2 Farm and Forest Zoning District):**

From 6:00 AM until 10:00 PM, any proposed WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or the lease unit boundary. If the ambient sound pressure level exceeds thirty-five (35) dB(A), the standard shall be the same as the ambient dB(A) plus five (5) dB(A). From 10:00 PM until 6:00 AM, any proposed WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the properties adjacent to the subject property or lease unit boundary. If the ambient sound pressure level exceeds thirty-five (35) dB(A), the standard shall be the same as the ambient dB(A) plus zero (0) dB(A). A manufacturer's specification sheet or similar data shall be provided documenting decibel levels.

**3. Determination of Ambient Noise Levels; Methodology for Measurement of WES**

Noise; Methodology for Assessment of WES Noise:

The "South Australia EPA Wind farms environmental noise guidelines" adopted by reference shall be the document used to determine the Ambient Noise Levels. Ambient noise levels shall be captured at the times of the year when background noise levels are lowest at the location where the WES is to be constructed. The Planning Commission may accept more current methodology if a determination is made by the County's consultant that the methodology is as clearly defined and specific to wind energy systems as the ["South Australia EPA Wind farms environmental noise guidelines"](#) dated July 2009. These reports must be prepared by a Qualified Acoustics Professional.

**F. Maximum Vibrations**

Any proposed Utility Grid WES shall not produce vibrations humanly perceptible beyond the property on which it is located.

**G. Shadow Flicker**

The applicant shall provide a shadow flicker model for any proposed WES. The model shall:

1. Map and describe within a one-mile radius of the proposed project site the topography, existing residences, locations of other structures, wind speeds and directions, existing vegetation and roadways;
2. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, wind directions and speeds, moon positions and reflection directions;
3. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations;
4. Calculate the total number of hours per year of flicker at all locations;
5. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed measures to mitigate these problems, including, but not limited to, a change in site location of the facility, a change in the operation of the facility, or grading or landscaping mitigation measures.
6. The facility shall be designed such that shadow flicker will not be visible on, or in, any existing dwelling. Shadow flicker expected to be visible on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:
  - a. The flicker will not exceed 30 hours per year; and
  - b. The flicker will not be visible within 100 feet from a structure designed for human occupancy; and



- c. The flicker will not be visible on a county primary road, or state or federal highway.

**H. Transmission Lines**

The on-site electrical transmission lines connecting the Utility Grid WES to the public utility electricity distribution system shall be located underground wherever possible as determined by the Planning Commission.

**I. Interference with Commercial/Residential Reception**

Utility Grid WESs shall be constructed and operated so that they do not interfere with television, microwave, navigational, or radio reception.

**J. Landscaping**

Existing natural land forms on the site which effectively screen the base of the WES from adjacent property used for residential purposes shall be preserved to the maximum extent possible.

**K. State or Federal Requirements**

Any proposed Utility Grid WES shall meet or exceed any standards and regulations of the [FAA](#), [the Michigan Public Service Commission](#), [National Electric Safety Code](#), and any other agency of the state or federal government with the authority to regulate Utility Grid WESs or other tall structures in effect at the time the permit is approved. Certification that the applicant has complied with or will comply with all applicable state and federal laws and regulations including copies of all such permits and approvals that have been obtained or applied for when the application shall be required.

**L. Safety**

All WESs shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All WESs shall have lightning protection.

**M. Visual Impact**

All Utility Grid WESs shall meet the following requirements:

1. Each Utility Grid WES shall either be white or maintain a galvanized steel finish.
2. Each Utility Grid WES shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
3. Each Utility Grid WES shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not use guy wires.
4. Each Utility Grid WES shall be designed to aesthetically complement the color and design of any existing WES within a one-mile radius.

5. Visual simulations of how the completed project will look from a minimum of four viewable angles shall be provided by the applicant.

**N. Soil Conditions**

A proposal for any Utility Grid WES tower shall be accompanied by a report of the soils present on the site based on soil borings, and a description of the proposed foundation size, materials, and depth.

**O. Sign**

A sign of no more than four (4) square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the WES site. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours, on weekends or holidays. No Utility Grid WES tower or anemometer tower or site shall include any advertising sign.

**P. Lighting**

WESs shall not be artificially lighted, unless required by the [FAA](#) or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:

1. Shall be the lowest intensity allowable under FAA regulations.
2. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA.
3. May be a red top light that does not pulsate or blink.
4. All tower lighting required by the FAA shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.)
5. The Planning Commission may require design changes in order to lessen the visual clutter associated with the site location of multiple wind turbines with non-complementary, inconsistent design within sight of each other.

**Q. Removal of Abandoned or Unsafe WESs**

Any WES that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Any WES found to be unsafe or not in compliance with the standards related to noise or shadow flicker shall be found to be in violation of the permit. The owner of any WES that is abandoned or in violation of the permit shall remove the same within twelve (12) months of receipt of notice from the County of such abandonment or violation. In addition to removing the WES or anemometer tower, the owner shall restore the site of the WES to its original condition before location of the WES, subject to reasonable wear and tear. Any foundation associated with a WES shall be removed to grade. Failure to remove an abandoned WES within the twelve (12) month period provided in this subsection shall be grounds for the County to remove the WES at the owner's expense. The Planning Commission shall require the applicant to provide a performance guarantee equal to the reasonable cost of removing the WES and attendant accessory

structures as a condition of a permit given pursuant to this Section.

**R. Complaint Resolution**

The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Emmet County from acting on a complaint. Should the complaint involve sound levels, then the methodology for assessment, measurement, and determining ambient noise levels shall follow the "South Australia EPA Wind farms environmental noise guidelines" dated July 2009 as adopted in this Section.

**S. Unintended/misrepresented nuisances**

Following construction and operation of the WES, should shadow flicker, sound levels, or vibrations exceed those projected by the developer, the WES shall not be operated until such nuisance is eliminated.

**T. Site Plan Review**

In addition to the Special Use Permit standards and review, a site plan and a site plan review, meeting the requirements of [Article 20](#) of the Emmet County Zoning Ordinance, shall be required.

**U. Additional requirements for Utility Grid WESs**

The application shall also include:

1. A copy of an Environment Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
2. A copy of the Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
3. Maps shall be presented showing all of the following:
  - a. The physical features and land uses of the project area, both before and after construction of the proposed project;
  - b. Project area boundaries;

- c. The location, height, dimensions, color, and materials of all existing and proposed structures and fencing;
  - d. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road; and
  - e. All new infrastructure above ground related to the project.
4. Proof of the applicant's public liability insurance shall be provided before issuance of a Zoning Permit. This insurance shall be maintained throughout the life of the project and proof provided upon the County's request.

#### V. **Technical assistance**

For wind energy systems and/or meteorological data regarded to be complex the Planning Commission may require additional studies, information, and/or review. The applicant shall be required to reimburse the actual cost of any such independent review before a decision by the Planning Commission.

### **Section 26.04 Recreation Camps, Recreation Lodges and Resorts**

#### **RR, SR, FF-1, FF-2**

Recreation camps, recreation lodges, campgrounds and resorts for either profit or non-profit, may be permitted provided the following conditions are met:

- A. The use is established on a minimum site of forty (40) acres.
- B. All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least 100 feet from all property lines. The resulting 100 foot yard shall be maintained as a buffer area wherein all natural tree/shrub cover is kept in a healthful growing condition. Planted greenbelts may be required by the Planning Commission as considered necessary.
- C. The use does not locate within the confines of a platted subdivision intended for single residential occupancy or parcels which are considered by the Planning Commission to be logical extension of such a platted area.

### **Section 26.05 Mobile Home Community**

#### **R-1, R-2, I**

Mobile Home Communities intended for residential occupancy may be permitted after a Hearing by the Planning Commission provided the following conditions are satisfied:

- A. Mobile Home communities of three or more mobile homes shall be developed and licensed pursuant to the requirements of the [Michigan Manufactured Housing Commission, Public Act 96 of 1987](#) and any rules promulgated pursuant to this Act, as amended. This includes,

but is not necessarily limited to, compliance with Michigan Manufactured Housing Commission regulations concerning internal roads, parking requirements, fencing, screening, unit spacing and recreational and open spaces.

- B. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require all manufactured homes in manufactured housing developments to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. The land parcel being proposed for a mobile home community shall be of such area as to provide a minimum of twenty (20) mobile home sites or pads.
- D. No mobile home shall be nearer to a mobile home community boundary line or property line than the minimum required setback in the District where located.
- E. Mobile home sites within a mobile home community shall contain a minimum area of at least 5,000 square feet, exclusive of service drives, facilities, and recreation space.
- F. The perimeter setback areas of a mobile home community shall be in lawn, or landscaped, or kept in a natural wooded state as applicable.

## Section 26.06 Recreational Vehicles

### **R-1, R-2, RR, SR, B-1, B-2, B-3, P-T, I, FF-1, FF-2, FR**

Recreational vehicles may be used as follows:

- A. As temporary dwellings in any District until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued. The use of the temporary dwelling or Recreational Vehicle shall be limited to twelve (12) months beginning with the issuance of a permit. The permit may be renewed for not more than twelve (12) months at a time upon approval of the administrator for good cause shown. Recreational Vehicles shall be maintained in sound running condition with a current vehicle license.
- B. As a security office in B-1, B-2, B-3, I, FF-1 and FF-2 Districts, but only as an accessory use to the main use of the premises, as shown on an approved site plan.
- C. As a temporary contractors office and/or equipment shed in any district when in connection with a construction project authorized by Zoning and Building Codes.
- D. Other temporary uses of recreational vehicles for a period not to exceed 24 months upon review and approval by the Planning Commission, provided it is determined that the use is consistent with the spirit and intent of the Zoning Ordinance and would not be detrimental to any surrounding uses or properties.
- E. The unoccupied storage of a recreational vehicle on any residential property by the owner

thereof on his/her own property, shall be allowable as a permitted accessory use of the premises where there is a main use. The recreational vehicle shall be placed on the lot to comply with the setbacks in the zoning district for an accessory structure.

- F. No person shall use or permit the use of any temporary dwelling, "recreation unit", or "recreational vehicle" as defined in this Ordinance as a principal or seasonal dwelling on any site, lot, field, parcel or tract of land, except as follows:
1. As part of a campground licensed by the Michigan Department of Public Health.
  2. As temporary recreation on a non-commercial/no rental basis by tourists, campers and sportsmen on public land where such activity is allowed by state or federal regulations or on one's own land not to exceed one recreational unit on the property for a period of sixty (60) days in a calendar year.
  3. Storage of temporary dwellings, recreational vehicles, trailers, etc. shall only be on a parcel on which exists a principal dwelling and; meet the front setback standard of the applicable zoning district and be setback five feet from all side and rear property lines.
- G. If a recreational vehicle or temporary dwelling is on a parcel on the effective date of this ordinance, and has an on-site sewage treatment and disposal system, water well, and electricity the use of the temporary dwelling or recreational vehicle may continue, until replaced or removed from the parcel. If any one or more of the on-site sewage treatment and disposal system, water well, or electricity is not present, the recreational vehicle shall be removed within ninety (90) days of the effective date of this ordinance.

## **Section 26.07 Veterinarian Hospitals and Kennels and Shelters**

### **B-2, I, FF-1, FF-2**

- A. All facilities for housing, treating, and keeping of animals are located at least five-hundred (500) feet from a residential district boundary.
- B. All animals on the premises shall be housed within a completely enclosed building between the hours of 10:00 PM and 8:00 AM.
- C. The facility for keeping of animals does not exceed 2,400 sq. ft. excluding the outdoor exercise area.

## Section 26.08 Resource Mining, Extraction or Fill

### **B-1, B-2, B-3, I, FF-1, FF-2, FR**

#### **26.8.1 Intent**

The location of mining and extractive operations are dependent in large part, upon the sites which contain natural deposits of material having economic value, particularly to the construction industry. Sites nearest to the built-up areas are generally more viable economically, but they would be more sensitive environmentally, because of their close proximity to homes and smaller building sites. The treatment of extractive operations as a special use (conditional) is necessary to build-in the flexibility needed to permit these activities where the resources are found, and at the same time, to afford protection to adjoining properties to the extent necessary with each particular site. Public agencies, government units, and private operations are included.

The following standards of [Section 26.8](#) apply to all zoning districts listed above:

#### **26.8.2 Site Plan Requirements**

Site plans for Special Use Permits shall be in accord with the site plan requirements of [Article 20](#), as applicable to the particular site, and shall in addition show:

- A. Proposed location, area, extent and depth of excavation or fill.
- B. Pertinent time schedules for starting and concluding dates of the proposed operation per Permit.
- C. Location of spoils dumps, sediment basins, earth stockpiled and any permanent or temporary machinery or buildings to be used.
- D. Roads to be used by any hauling equipment and show all planned ingress/egress points to the excavated area, stockpiled resources, and on-site equipment.
- E. A statement on general ground water conditions, including levels and any possible impact on wells in the area.
- F. A statement outlining the type of material to be extracted or deposited, the type of mining operation and processing equipment to be used and measures to control noise, pollution, run-off and any steps to relieve any adverse effects to adjoining properties and the environment.
- G. Plans and statements outlining all work to be done on site reclamation, assuring that sufficient steps are taken to blend into the surrounding landscape or neighborhood as applicable.

The map scale of the site plan shall be commensurate with the size of the excavation on site, but shall be sufficient to show the site operating details as required by each Permit.

#### **26.8.3 Site Plan Review Levels Required**

The site plan review procedures required for an extraction/fill site will vary with the scope, extent and complexity of the proposed operation. The following site plan review levels shall apply in all Zoning Districts:

**A. Level I**

No Site Plan Review or Permit shall be required if:

1. The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.
2. The operation involves minor or incidental earth work in connection with a building construction project, i.e. berms, regraded slopes, retention ponds, and/or similar work.

**B. Level II**

Site plan approval shall be sought from the Zoning Administrator if:

1. Intended or projected extraction/fill areas are three (3) acres in area or less, and the operation is not located in a Residential District.
2. At least 100 feet separates the edge of the earth disturbance area from the nearest property line.
3. There are no buildings or on-site structures related to the operation. Crushing equipment, batch plants and related processing equipment shall not operate or occupy the site for a period longer than 45 days.
4. The total extraction and site reclamation operation will be completed within a 12-month period, except stockpiled material which can stand for a longer period not to exceed 24 months.
5. The extraction is not visible from a public road and the side slopes are to be restored to a safe angle of repose, and there are no unsafe/unprotected standing water conditions.

**C. Level III**

Site Plan approval by the Planning Commission if:

1. Intended or projected extractive/fill sites are larger than three (3) acres and any sites other than those included in Level I and Level II reviews.
2. Operations expected to run longer than (12) twelve months, including long term access to stockpiled resources.
3. Includes on-site processing machinery, batch plants and other equipment that will be used for periods longer than 45 days.



4. Questionable, unusual or special site conditions where the Zoning Administrator determines that Planning Commission review would be appropriate.

#### **26.8.4 Performance Standards**

The following shall apply to all proposed extraction, mining, fill operations:

- A. All excavations or extractive work shall maintain a minimum perimeter setback of 50 feet from road right-of-way and all property lines. Controlled work in the 50 feet setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed as the work progresses (in cases of a pit).
- B. The working face of an excavation shall maintain slope angles sufficient to prevent sloughing, erosion or earth disturbances of any kind of adjoining properties.
- C. Leave sufficient native topsoil on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless a guaranteed replacement plan is approved.
- D. Fences, berms, walls, and visual screening devices may be required, if necessary, to protect adjoining properties and/or persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
- E. The operation of mechanical equipment of any kind may be limited by the day and/or the hour if the site is in a location that directly impacts homes, by creating an operating nuisance.
- F. All structures, equipment, and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit. This item shall not apply to industrially zoned sites.
- G. Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/ or Federal regulations applicable to the facility.
- H. If necessary to protect the area, access routes serving the site may be limited as stated on the Permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.
- I. The location of earth stockpiles, machinery, equipment and any buildings, shall be approved by Permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.

#### **26.8.5 Site Reclamation**

The final grading and land reclamation plan for each permitted excavation shall be in general

accordance with the character of uses and natural features on adjoining lands to the extent practical. Excavations shall be finished with evenly contoured grades to blend in with the adjoining terrain. In Residential Districts, the final grade of an excavation may be required to be brought back to a level determined reasonable to continue future residential development, i.e. as along a common street or road with adjoining residential land.

- A. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. An alternate reclamation plan may be filed for cases where continuous reclamation is not practiced or feasible, and a surety bond is provided.
- B. Excavations which encounter ground water or trap surface water, shall be treated in one or more of the following, as applicable to a particular situation:
- C. Stagnant water conditions shall not be permitted to continue and back filling with approved materials may be required.
- D. Where water is to remain, either by planned re-use or because no other option exists, the depth shall be sufficient to avoid stagnation, and the shoreline and bottom land grade shall be uniform at one ft. vertical to five ft. horizontal (1:5). The water depth shall be posted.
- E. Depending on the nearness of residential neighborhoods, and access by children, the created water body may be required to be safety fenced, posted for no trespassing, or similar safety precautions considered appropriate for the site.
- F. The final banks of all excavations shall be sloped at a grade which is not steeper than one (1) ft. vertical to three (3) ft. horizontal (1:3) from the top to the pit bottom, or otherwise be established to blend in with the adjacent terrain and/or stabilize at the soils natural angle of repose.
- G. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired. Where used, top soil shall be applied to a depth sufficient to support vegetation.
- H. Vegetation may be required to be restored by seeding of grasses or sodding and/or the planting of trees and shrubs.
- I. Upon cessation of mining operations, and within a reasonable period of time not to exceed 24 months, all plant structures, buildings, and equipment shall be removed, except for that necessary to manage on-site stockpiled materials. This does not preclude a restart at another time upon permit renewal.

Specific site reclamation requirements may vary somewhat depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas,

sensitivity to the natural environment, and/or re-use potential (or plan). The Planning Commission shall rule on such variations with reasons stated.

### **26.8.5 Special Use Permit**

- A. Nonconforming mining operations, those which are active or have been active within the last 24 months, and established as a business operation, shall not require a permit, provided such operations do not increase their nonconformity relative to the performance standards of this Ordinance, and no hazardous site conditions are maintained. No such operation, however, shall extend into the required 50 feet setback area and precautions shall be taken to avoid leaving hazardous conditions.
- B. To avoid duplication, the Zoning Administrator may accept the documents required for permits under [Soil Erosion and Sedimentation Control, Part 91 of 1994 PA 451, as amended](#), provided, the terms, standards, and review requirements of the Zoning Ordinance are complied with. Any extraction or fill operation subject to regulations and licensing under state law, shall be exempt from zoning laws where such exemption is extended by state law.
- C. Permits shall contain the full extent of the operation as specified in each Permit, and any deviation or enlargement of the scope of operation shall require a separate Permit.

### **26.8.6 Performance Guarantees**

In those instances, where in the opinion of the Planning Commission or Zoning Administrator, a resource excavation/fill operation entails extensive reclamation work and/or safety precautions, financial guarantees or assurances as prescribed in [Section 20.08](#) of the Zoning Ordinance may be required as a condition to issuing a Special Use Permit under the terms of this Ordinance.

In lieu of a bond requirement or financial guarantee, the Planning Commission may substitute a staged or phased excavation program wherein performance on reclamation shall be substantially completed before undertaking the next phase.

## **Section 26.09 Home Occupations, Home Based Businesses**

### **R-1, R-2, RR, SR, B-1, B-2, B-3, P-T, I, FF-1, FF-2, FR**

#### **Home Occupations:**

A Home Occupation requires an Administrative Review by the Zoning Administrator, and if warranted the Zoning Administrator can choose to forward the application to the Planning Commission for review at a public hearing.

A Home Occupation differs from a Home Office based on the following criteria. The standards of the Home Office must be met, unless listed as follows.

- A. If an accessory building is to be used for a home occupation, the building shall be sited, designed, and located on the property in such a manner as to avoid the appearance of a retail store or industrial building, and it shall be readily re-useable

for residential purposes if no longer used for the home business. The use qualifies as a Home Occupation if the size of the use is larger than 600 square feet of the dwelling or accessory building, but not more than 1,200 square feet. Any structural additions to the home for purposes of operating the office shall be of an architectural style that is comparable with the architecture of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the occupation is discontinued.

- B. There is the requirement of additional parking or signage to accommodate the use. Signage shall not exceed 4 square feet.
- C. Only the occupant or family living on the premises shall conduct the home occupation and no off-premises person(s) shall be employed in connection with the home office.
- D. There shall be no open display of goods, materials or services in connection with a home occupation, and no off-street parking shall be permitted within the setback area.
- E. The use does not involve any delivery services other than typical mail services.
- F. Clients or customers are not required to visit the property other than on a few occasions, not to exceed an average of one (1) person per day. No parking for customers above the existing/required parking is provided.

**Home Based Businesses:**

Home Based Businesses that are operated in accordance with the Definition in [Section 2.01](#), may be approved in any zoning district by the Planning Commission subject to the following stipulations:

- A. An occupied residence must exist on the property.
- B. Any structural additions to the home for purposes of operating the business shall be of an architectural style that is comparable with the architecture of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the business is discontinued.
- C. Up to three (3) persons outside the home may be employed to operate the Home Based Business. Parking for employees required at 1 space per employee.
- D. If an accessory building is to be used for a home based business, the building shall be sited, designed, and located on the property in such a manner as to avoid the appearance of a retail store or industrial building, and it shall be readily re-useable for residential purposes if no longer used for the home based business. All accessory structures shall meet the standards of Section 22.01.
- E. There shall be no open display of goods, materials or services in connection with a home based business.
- F. There may be signage associated with the use not to exceed the allowed signage in the underlying zoning district.

- G. The use may involve delivery services other than typical mail services. If required, then the applicant must show proposed maneuverability of the vehicles.
- H. Clients or customers may visit the property Parking for customers shall be provided based on the parking Section 22.02
- I. The Planning Commission shall deny a Special Use Permit for a home occupation in those instances where it is determined that the proposed use would:
  - 1. Lack an occupied residence on the property.
  - 2. Conflict with the residential character of the neighborhood or surrounding area, because of the type of use proposed, or hours of operation, and/or number of vehicles attracted to the site.
  - 3. Have parking, traffic or loading demands that would exceed the carrying capacity of the property, serving streets, or utilities.
  - 4. Require vehicles, machinery, mechanical devices, or equipment that would generate operational nuisances in direct conflict with homes in the vicinity.
  - 5. Require physical design, display, sign or locational features that are inconsistent with the residential character of the area.

## **Section 26.10 Junk Yards, Salvage Yards, Metal Recycling and Scrap**

### **I, FF-2**

#### **26.10.1 Intent**

Salvage yards are Special Land Uses because they:

- A. Are generally not acceptable in organized industrial parks.
- B. Usually require large sites for self-isolation.
- C. Are necessary for the re-use, recycling and recovery of metal resources.
- D. Have unusual physical characteristics in terms of appearance, land coverage, noise, and related features that constitute difficult site location standards.
- E. Have the potential to release hazardous and/or toxic liquids into the groundwater.

#### **26.10.2 Salvage Yard Classifications**

Salvage yards that can be considered in the FF-2 District shall be defined and regulated by type or

class depending on the scope of its intended operation. These are:

**A. Type I**

A full service metal salvage center intended for the collection, storing and/or processing of scrap metals of all kinds, and other materials defined as junk in this Ordinance.

**B. Type II**

A limited salvage facility with open storage on less than ¼ acre of land and where the materials are not stacked. This facility is not a vehicle repair or sales use except as an incidental function to the salvage operation.

**C. Type III**

A site used for short periods of time for community vehicle collection programs. This facility does not include continuous processing or repairing, and is intended for annual clean-up programs to collect sufficient materials to warrant a visit by vehicle crusher, shredder, or similar processor.

In approving Special Land Use Permits for salvage operations the Planning Commission shall classify the facility as being Type I, Type II, and/or Type III, and shall weigh the type of a facility in requests to modify any siting standards.

**26.10.3 Requirements**

Metal recycling centers or yards, or facilities, including salvage yards or scrap yards, and which uses include the storage, dismantling, sorting, cutting, crushing, and/or other processing activities primarily associated with metal goods, provided:

- A. All activity and uses are within a defined and confined space as opposed to being dispersed over the site. Only that area designated on the site for these uses shall be permitted to be so used.
- B. No oils, lubricants, or other liquids from vehicles, machinery, or equipment or other materials, shall be disposed of on-site, unless State of Michigan approved facilities are properly in place and properly functioning. No burial of wastes shall be permitted on the property under this ordinance Section.

The applicant shall state in writing and/or illustrate how potentially hazardous liquids are to be prevented from entering the groundwater, and present a written plan for handling and disposal of such hazardous liquids.

The applicant may be required to provide a written contingency plan for hazardous/toxic spills. The Planning Commission may require a roofed work area with an impervious floor with floor drain collection system.

- C. Unless the applicant can demonstrate that no good purpose would be served, the proposed site shall have a minimum of six (6) feet of vertical isolation from groundwater, and be at least 1,000 feet from identified surface water.
- D. Screening devices to include but not necessarily be limited to fences, greenbelts, berms or natural features shall be employed to provide maximum visual obscurity of the use. No such device shall be constructed without approval of the structural details and type of materials to be used, and adhere to a stated installation schedule.
- E. Entrance/exit points shall give due consideration to minimizing conflicts with adjacent properties, and the views from adjacent properties and/or public roads shall be a major consideration in positioning the use on the property.
- F. Activity that generates continuous and persistent noises or vibrations that are perceptible from off the site shall not be permitted before the hour of 8:00 a.m. and after 6:00 p.m. and no such activity shall operate on Sundays. Exceptions may be permitted for annual or semi-annual on-site crushing operations, or the like.
- G. Open burning shall not be permitted except by State Permit, and it shall apply with paragraph 6 of this subsection.
- H. Once approved, no other portion of the property shall be used for activities regulated without an amended site plan and Special Land Use Permit, and there shall be no presumption that any usage beyond that in the original permit would be approved.
- I. The minimum site size to consider for uses permitted shall be 35 acres or more by description and have at least 900 feet of width and depth throughout. All salvage yard uses shall be at least:
  - 1. 200 feet from a property line
  - 2. 300 feet from on off premises residence
  - 3. 500 feet from a Residential District Boundary
- J. The height of stacked metals and/or materials shall be regulated by screening and the physical characteristics of the site, but in no instance be higher than twenty (20) feet.

The Planning Commission may modify the terms of this Section where it can be demonstrated that no good or practical purposes would be served by strict compliance, and for temporary collection sites to be used for less than 12 months.

#### **26.10.4 Reasons for Denial**

The Planning Commission may refuse to grant a permit for any salvage uses regulated, because of one or more of the following:

- A. The topography is such that the use has wide visual exposure to surrounding properties and public roads, and/or land conditions are such that screening plans would be ineffective or impractical.
- B. There are conflicts with natural water courses and/or there are undesirable impacts on wetlands, farmlands, and forest lands.
- C. It is determined by the Planning Commission that the proposed use on the proposed site is inappropriate for the area, and not in accord with the principles of land use expressed or implied in the interpretation of appropriate use shall also consider, but not necessarily be limited to: recognized scenic resources, recreation lands, neighborhoods, historic sites, tourist attractions, and similar uses that would be adversely affected, and not be in the best interests of public welfare.
- D. Failure to show an ability to comply with the standards listed in this Ordinance Section.

### **26.10.5 Violations Not Nonconforming**

Any salvage yard, junk yard, or junk storage use determined to have been established in violation of the terms of the Emmet County Zoning Ordinance shall not be accorded the status of "nonconforming" as defined in this ordinance, but shall be pursued as ordinance violations. Such uses, however, shall have the right to hearings and procedures to qualify for a legal Special Land Use Permit as prescribed in Article 21.

## **Section 26.11 Drive-Thru/Drive-in Businesses**

### **R-2, B-2, B-3, I**

#### **26.11.1 Intent**

To provide adequate vehicle stacking space on business properties that offer drive-in, drive up, or drive-thru services in order to avoid congestion on adjacent streets and to require site designs that address on-site circulation patterns, recognizing potential pedestrian conflicts with vehicles entering/exiting the property, vehicles using parking lots and vehicles using drive-thru service lanes.

#### **26.11.2 Standards**

Businesses which provide a drive-in, drive up, or drive-thru service (but not retail fueling stations) may be permitted, as regulated in their respective Zoning Districts, subject to the review of the Planning Commission and the following conditions:

- A. Vehicular access drives shall be located at least 60' from the nearest right-of-way line of all intersecting streets.
- B. Drive-thru, drive up or, drive-in service windows and order areas shall only be located in



the side or rear yard of the property.

- C. Site design shall show compatibility between pedestrians and parking areas, stacking lanes, access lanes to parking spaces, and to drive-thru lanes.
- D. Service windows, order kiosks, and/or service pedestals shall not be located along that side of the building which borders a Residential or Farm Forest Zoning District boundary, in order to protect residential areas from the nuisances of sound systems, running engines, and exhaust pollution.
- E. Planted greenbelts, berms, and/or fencing may be required by the Planning Commission if considered appropriate to achieve compatibility with adjacent uses.
- F. Stacking spaces shall be provided for drive-thru operations subject to the standards listed in the parking requirements in [Section 22.02](#).

### **26.11.3 Exceptions**

The Planning Commission may modify or waive the standards contained in this Section where it can be demonstrated that no good or practical purpose would be served by strict compliance.

## **Section 26.12 Farms & Farm Animals, Domestic**

### **R-1, R-2, RR, SR, FF-1, FF-2, FR**

Domestic Farms, as defined in this Ordinance, are allowed without a permit if the following standards are met:

#### **26.12.1 Domestic Farms in Residential Districts (R-1, R-2, RR, SR)**

Domestic Farms that include livestock must be on sites of 2.0 acres or larger, as follows:

- A. Animal density of two Farm Animal Unit for the first 2.0 acres, plus one additional Farm Animal Unit for each additional acre of contiguous land (ownership or lease). Animal densities are calculated from Farm Animal Unit.
- B. Corrals, stables, and enclosure fencing shall meet the setbacks of the District, and building sizes comply with [Section 22.01](#), Accessory Buildings.
- C. Other farm animals subject to approval by the Planning Commission, who shall determine that the densities related to item (A), and/or meet one acre per “Farm Animal Unit” as defined in this ordinance, and that no nuisances are maintained to the detriment of neighboring owners. Swine, roosters, or other animals may be prohibited by the Planning Commission, if determined to cause a nuisance.

In the case of disputes or needed interpretations, the Planning Commission may review and take action to continue, modify, or abate a domestic farm use in keeping with the spirit and intent of the Zoning District, and the level of management and care given the subject livestock.

### **26.12.2 Domestic Farms in FF-1 & FF-2 Districts**

The following standards apply to Domestic Farms as differentiated from Commercial Farms defined in this Ordinance:

- A. Domestic Farms that include livestock on sites of 2.0 acres or larger, will be regulated as stipulated for Residential Districts.
- B. Greenhouses, hatcheries, apiaries, hydroponics, fur bearing animals, mushroom farms, shall only be permitted, as Domestic Farms, on sites of a minimum of five (5) acres, subject to approval by the Zoning Administrator who shall find that the uses:
  1. Do not conflict with surrounding residential uses that may be adjacent or nearby.
  2. Retail traffic is not attracted to the property.
  3. Corrals, stables, enclosure fencing and all buildings shall meet the setback standards of the District, and building sizes shall comply with **Section 22.01**, Accessory Buildings.
  4. The property is at least 300 feet in width.
  5. The use is not a Commercial Farm as defined in the Ordinance.

In the case of disputes or needed interpretations, the Planning Commission may review and take action to continue, modify, or abate a domestic farm use in keeping with the spirit and intent of the Zoning District, and the level of management and care given the subject livestock.

### **Section 26.13 Customary Accessory Building (greater than 200 square feet) without a Main Use**

#### **R-1, R-2, RR, SR, FF-1, FF-2, FR**

#### **26.13.1 Residential Zoning Districts (R-1, R-2, RR, SR)**

Except as otherwise regulated, customary accessory residential buildings may be constructed without the requirement for a main building in all Zoning Districts subject to a Hearing and approval of the Site Plan by the Planning Commission when the following conditions are met:

- A. The structure is sited in such a manner as to permit the construction of a legal main use at a future time, but shall be subject to the size limitations stated in **Section 22.01**. For these

regulations, rear yard shall refer to a location 100 feet or deeper from the front property line, which is also the road right-of-way line. A plot plan shall be submitted showing where a future dwelling could be located on the parcel that, if built, would comply in all respects with this Ordinance.

- B. The structure is constructed of materials and is of a design that is not so at variance with existing dwellings in the immediate vicinity as to have a devaluing influence, in the opinion of the Planning Commission. The applicant shall provide elevation sketches and floor plans of the proposed structure in order to assist in the determination of architectural variance.
- C. The structure may be required to be located in such a manner as to attain natural screening by existing vegetation, or plantings may be required to at least partially screen the use from the view of adjoining properties and/or public roads.
- D. All uses of the property must be in keeping with the residential or recreational use character of other properties in the immediate vicinity.
- E. The applicant shall record an affidavit with the Register of Deeds stating the proposed use of the building.
- F. Mobile homes shall not be used as accessory buildings.

#### **26.13.2 FF-1 and FF-2 Districts:**

One customary accessory residential building may be constructed without the requirement for a main building subject to review by the Zoning Administrator:

- A. The structure is sited in such a manner as to permit the construction of a legal main use at a future time, but shall be subject to the size limitations stated in [Section 22.01](#). For these regulations, rear yard shall refer to a location 250 feet or deeper from the front property line, which is also the road right-of-way line.
- B. The structure is constructed of materials and is of a design that is not so at variance with existing dwellings in the immediate vicinity as to have a devaluing influence, in the opinion of the Zoning Administrator. The applicant shall provide elevation sketches and floor plans of the proposed structure in order to assist in the determination of architectural variance.
- C. The structure may be required to locate in such a manner as to attain natural screening by existing vegetation, or plantings may be required to at least partially screen the use from the view of adjoining properties and/or public roads.
- D. All uses of the property must be in keeping with the residential or recreational use character of other properties in the immediate vicinity.
- E. Buildings constructed under this Section shall not be used for any purposes except to store personal property related to permitted uses of the site, and such structures shall not be

occupied by or used to house persons or animals (unless on a farm) or otherwise be a base for any activities not permitted in the district.

- F. The applicant shall record an affidavit with the Register of Deeds stating the proposed use of the building. Such affidavit shall be recorded before issuance of a zoning permit.
- G. Mobile homes shall not be used as accessory buildings.

## Section 26.14 Helicopter Landings & Takeoffs

### I, FF-1, FF-2

The provisions of this section shall apply to General Aviation Helipads only. Commercial helipad operations are not allowed under this Ordinance except at an approved airport location.

This section shall not apply to (1) the emergency use of a helicopter relating to the evacuation of a human being, or (2) military, Coast Guard, firefighting or law enforcement related landings or takeoffs.

- A. Heliports and Helistops are permitted within Emmet County only if these activities meet all requirements of the [Federal Aviation Administration \(FAA\)](#) and State of Michigan and have been otherwise approved as a permitted special use in accordance with this Ordinance.
- B. Helistops shall only be permitted as special uses in the FF-1 and FF-2 Farm and Forest Districts and in the Industrial Zoning Districts.
  1. Helicopters permitted to be used on helipads shall not exceed 8,000 Maximum Gross Weight per the Transport Category for the airframe.
  2. Sound level limits based on Transport Category levels shall not exceed 94 dB(A) with FAA standards of certification.
- C. Heliports shall only be permitted as special uses in the I-2 General Industrial Zoning District.
- D. Repetitive landings and takeoffs by any organization shall require the use of a heliport or helistop permitted in accordance with the provisions of this Ordinance.
- E. No provision of this subsection of this Ordinance shall contravene or circumvent the Federal Aviation Regulations as they pertain to the operations of helicopters, or the federal reporting requirements for the establishment of helicopter landing areas.

Any applications, determinations or other documentation submitted to or provided by the FAA in connection with the proposed establishment of a heliport pursuant to this Ordinance shall be submitted along with any application for a special use permit under this subsection.

- F. A proposed helistop FATO in a Farm and Forest (FF-1 or FF-2) District shall be setback at least five hundred (500) feet from any property lines. A proposed heliport or helistop FATO in an Industrial District shall be set back at least fifty (50) feet from any property lines. The only permitted exception to these setback requirements shall be if a boundary of the property is a lake, then the setback from that boundary shall be upland of any sand dunes and dune

vegetation and at least sixty (60) feet from the high water mark. A heliport or helistop FATO shall maintain a setback of 200 feet from all buildings on property, other than property owned by the applicant, in Industrial Districts and 500 feet from all buildings on property, other than property owned by the applicant, in Farm and Forest Districts (FF-1 & FF-2).

- G. The Planning Commission may restrict certain directions of entry onto the helistop or heliport if it finds that existing uses may create a hazard to the community.
- H. No person shall start, run up, taxi, takeoff, hover, or land, a helicopter between 10:00 p.m. and 7:00 a.m. local time.
- I. No more than two (2) takeoffs and two (2) landings per day shall occur at any heliport or helistop, and no more than five (5) takeoffs and five (5) landings per calendar week shall occur at any heliport or helistop. A maximum of one hundred (100) landings shall be permitted per calendar year. Further, the operators shall be required to log their operations with tail number, model of aircraft, owner and contact information, and make this information available to the County within fifteen (15) days of written request for the records for a designated period.
- J. A helicopter shall not have its engine(s) in operation on the ground for more than five (5) minutes for start-up or shut-down evolutions.
- K. Where a conflict exists between any of the regulations or limitations prescribed in this Ordinance and any other applicable federal or State regulations, the more stringent regulation or limitation shall govern.

## **Section 26.15 Sexually Oriented Businesses**

### **B-2, B-3, I**

#### **26.15.1 Purpose**

It is the purpose of this Article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.

#### **26.15.2 Findings and Rationale**

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41

(1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *Deja Vu of Nashville, Inc. v. Metropolitan Gov't of Nashville and Davidson County*, 466 F.3d 391 (6th Cir. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 5779504 (W.D. Mich. Oct. 23, 2006); *729, Inc. v. Kenton County*, 2006 WL 2842884 (E.D. Ky. 2006); *Deja Vu of Cincinnati, L.L.C. v. Union Township Bd. Of Trustees*, 411 F.3d 777 (6th Cir. 2005) (en banc); *Little Mack Entm't II, Inc. v. Twp. of Marengo*, 2008 WL 2783252 (W.D. Mich. July 17, 2008); *Big Dipper Entm't, LLC v. City of Warren*, 658 F. Supp. 2d 831 (E.D. Mich. 2009); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *City of Chicago v. Pooh Bah Enterprises, Inc.*, 865 N.E.2d 133 (Ill. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 2504388 (W.D. Mich. 2006); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *181 South, Inc. v. Fischer*, 454 F.3d 228 (3rd Cir. 2006); *Bronco's Entertainment, Ltd. v. Charter Twp. of Van Buren*, 421 F.3d 440 (6th Cir. 2005); *Charter Twp. of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003); *Jott, Inc. v. Clinton Twp.*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Kentucky Restaurant Concepts, Inc. v. City of Louisville*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ky. Ct. App. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Ctr. for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Big Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. Metro Gov't*, Case No. 04-CI-01967 (Jefferson Circuit Court, Summary Judgment Order, Dec. 14, 2004); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *Plaza Group Props., LLC v. Spencer County*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th

Cir. Jan. 13, 1999)(table); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Warren Police SID Report/Affidavits - 2005; Louisville, Kentucky - 2004; Dallas, Texas - 2007; Criminal Justice Policy Review - 2008; Detroit, Michigan - 2010; Warren, Michigan - 2008; and Detroit Police Report Summaries - 2005-2009,

the Board of Commissioners finds:

- A. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- B. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- C. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the County's rationale for this Ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the County. The County finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to the secondary effects.

The County adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

### **26.15.3 Location of Sexually Oriented Businesses**

- A. Sexually oriented businesses shall not be required to obtain a conditional use permit or special use permit.
- B. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Emmet County in any zoning district other than the B-2, B-3, I zoning districts.
- C. No sexually oriented business may be established, operated, or maintained within any PUD district which is planned residential.
- D. No sexually oriented business may be located in a PUD-1 or PUD-2 District unless such use is or has been specifically noted as allowable in the PUD District pursuant to appropriate notices, hearings and an on-site location plans.
- E. No sexually oriented business may be established, operated, or maintained within 500 feet of a residential zoning district.
- F. No sexually oriented business may be established, operated, or maintained within 500 feet of a part of any PUD district which is planned residential.
- G. No sexually oriented business may be established, operated, or maintained within 1,000 feet from any recognized house of worship, state-licensed day care facility, public library, public park, public or private educational facilities serving persons age seventeen (17) or younger, cemetery, or public assembly buildings including government offices. This buffer standard applies to any listed use, within or outside of the zoning boundaries of this Ordinance.
- H. No sexually oriented business may be established, operated, or maintained within 1,000 feet of a parcel occupied by any other sexually oriented business.
- I. For the purpose of this Section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) or zoning district identified in subsections (E), (F), (G), and (H) above.
- J. No sexually oriented business may be established, operated, or maintained in Emmet County if a person with an influential interest in the business has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Article.
- K. No sexually oriented business may be established, operated, or maintained in Emmet County if a person with an influential interest in the business has, in the previous five (5) years, had an influential interest in another sexually oriented business that (at a time during which the applicant had the influential interest in the other sexually oriented business) was declared by a court of law to be a nuisance.



**26.15.4 Unlawful Activities; Scierter Required; Penalty; Equitable Remedies.**

- A. Nothing contained in this Article is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or municipal ordinance. It is unlawful and a violation of this Article for an operator to knowingly or intentionally violate the provisions of this Article or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this Article. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.
- B. No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.
- C. No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least six (6) feet from all patrons and on a fixed stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- D. A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disk, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements: The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- E. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this Section shall be given one hundred eighty (180) days from the effective date of this ordinance to comply with the stage and building requirements of this Section. During the one hundred eighty (180) days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six (6) feet from all patrons.
- F. No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

- G. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 A.M. on any day.
- H. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- I. No person shall knowingly allow a person under the age of eighteen (18) years on the premises of a sexually oriented business.

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This Section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Section. Notwithstanding anything to the contrary, for the purposes of this Section, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this Section only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

**K. Sanctions; Equitable Remedies**

Any person, business, or entity violating or refusing to comply with any provisions of this Section shall be responsible for a municipal civil infraction. The sanction for a violation of this Section which is a municipal civil infraction shall be a civil fine in the amount provided in Ordinance 97-10, as amended, which is adopted by reference, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of 1961 PA 236, as amended. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises, building, dwelling, or other structure in which a sexually oriented business, as defined in this Article, is repeatedly operated or maintained in violation of the provisions of this Article shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by Emmet County in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation. Notwithstanding the foregoing, the County may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this Article.

**26.15.5 Severability**

This Section and each provision of this Section, are declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is declared to be the controlling legislative intent that if any provisions of the Section, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Section be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Article.

## Section 26.16 Government Buildings/facilities and Public Buildings Places of Worship, and Educational Facilities

### R-1

- A. All sites for uses permitted, shall maintain a minimum open space area equal to fifty (50%) percent of the site area (excluding road right-of-way). Open spaces shall not include buildings, parking lots, pedestrian walks, and/or driveways, and other paved or blacktop surfaces.
- B. The arrangement of property uses shall consider the impact on scenic views, and if feasible, the site design shall endeavor to mitigate negative impacts related to building size, noise, lighting and traffic.
- C. No such use shall locate on or have vehicle access from a subdivision street unless the subdivision (or similar type of development) contains dedicated sites for such uses.

## Section 26.17 Country Clubs/Golf Courses/Driving Ranges

### R-1, RR, SR, FF-1, FF-2

- A. Accessory pro-shops and/or clubhouses and driving ranges shall be clearly incidental to the golf use.

## Section 26.18 R-2 Commercial Standards

### R-2

- A. There shall be direct access to a County Primary road, city major street, village major street, or State Trunkline Highway, as opposed to a County local road, city minor street, village minor street, designated on the [1951 PA 51, as amended, \(MCL 247-651 et seq.\)](#) certification maps filed with the [Michigan Department of Transportation](#).
- B. The minimum lot width shall be one-hundred fifty (150) feet.

## Section 26.19 Recreation Areas/private, non-profit

### R-1, RR, SR, FF-1, FF-2, FR

- A. Uses shall be compatible with the surrounding residential area.
- B. Uses shall respect the environmental qualities of the site.
- C. No inordinate obstructions to scenic views shall be established.

- D. Recreational uses permitted include parks, playgrounds, and common access sites.
- E. No such facilities shall have a commercial appearance or be of a commercial character.

### **26.19.1 Recreation Uses with Inland Lake Frontage**

For recreational uses defined in this Section which have inland lake frontage, limitations on the extent, number and location of uses or facilities shall be established as follows:

- A. **Camping**  
Not permitted except as an accessory use to a larger resort complex as may be permitted by prevailing zoning regulations.
- B. **Vehicle Parking**  
Permitted only as necessary to afford a reasonable level of access convenience for the type of uses approved per Site Plan, and when in scale with uses on adjacent properties.
- C. **Boat Docks**  
1-Per 150 ft. of horizontal lot width (not shore line distance). Location to respect swimming beaches and docks on the same property or on adjoining properties.
- D. **Boat slips/Mooring**  
Not more than three motor powered craft per 150 ft. of horizontal property width, but not more than fifteen (15) power craft. No facilities for launching power craft from the site shall be permitted.
- E. **Swim Raft**  
One (1) raft up to 150 sq. ft. in floor area per recreation or park site.
- F. **Recreation Apparatus**  
As approved per site plan, but not in a required setback or greenbelt area.
- G. **Club House/Gazebo**  
Only as an accessory use to a larger development and when there is at least 600 ft. of horizontal lot width, minimum 150 ft. of setback from any property boundary, but only for the exclusive use of occupants and their guests.

These provisions shall NOT apply to accessory shoreline recreational uses on single lots serving individual occupant families.

**Section 26.20 Recycling facilities/Resource Recovery Facilities/Transfer Stations/Waste Collection/Sanitary Landfills****B-1, B-2, B-3, I FF-1, FF-2, FR**

- A. Setbacks: The facility shall be setback a minimum of three hundred (300) feet from the road right of way.
- B. Height of Piles: the maximum height of piles shall be fifty (50) feet.
- C. Screening: The facility shall be screened from the public road right of way by at least ten feet deep of mature vegetation that shall obscure the facility from the road.
- D. Area: The land area of the facility shall be at least 10 acres with a minimum lot width of 660 feet.

**Section 26.21 Campgrounds, RV Sites, and camping areas****RR, SR, FF-1, FF-2**

- A. The minimum health requirements governing campgrounds and/or camping areas shall be complied with.
- B. The use shall be developed on a site of at least ten (10) acres and no less than 600 feet of lot width or property width.
- C. No person shall occupy any recreational unit for more than six (6) months in any one year.
- D. The use shall not be visible from public streets and thoroughfares and shall be screened using a combination of privacy fencing and natural or planted greenbelts.

**Section 26.22 Sawmills, Planing Mills, Veneer Mills, and Accessory or Incidental Mill Operations involving Logs, “Unprocessed Timber” and/or Rough Sawn Lumber****I, FF-1, FF-2**

- A. The use shall involve the processing of raw timber and/or rough lumber and shall not include retail lumber yard businesses or hardware supplies, paints, and the like. Log and lumber storage uses are permissible accessory uses.
- B. The land area of the mill site shall be at least 10 acres with a minimum lot width of 660 feet.

- C. Structures housing mechanical wood cutting devices (head saws, cut-off saws, planers, lathes, etc.), shall not be located closer to an off-premises residence than 1,000 feet.
- D. Log storage and sawn timber or lumber shall not be located nearer than 500 feet from an off-premises residence.
- E. The location of a proposed mill shall be determined by the Planning Commission to be compatible with other uses in the general vicinity taking into account traffic flow, noise, scenic values, and residential environments where applicable. The mill location shall be determined to be good land use.
- F. In considering applications for forest industries the Planning Commission may permit modifications to the standards in items (a) through (e), where owing to natural or manmade conditions, no good purpose would be served by requiring strict compliance. Such conditions may include, but need not be limited to, steep topography, intensely wooded areas, and other natural barriers.
- G. Nothing in this Ordinance shall be interpreted to exclude temporary and itinerant sawmill operations on FF zoned property where the timber harvesting involves only those resources found on the same property. No permit shall be required where the operation involves a period of less than six (6) months on the same property or zoning lot.
- H. Lumbering and planing mills shall be completely enclosed and located so that no property use is nearer than one-hundred (100) feet from the exterior boundary of the property.

### **Section 26.23 Temporary uses including Mining Operations, Hot Mix Plants, Solid Waste Processing Equipment, and Similar Uses**

#### **FF-1, FF-2, FR**

A Zoning Permit may be issued if:

- A. The use serves a specific project in the vicinity.
- B. The use is active for a period of less than ninety (90) days on any one parcel.
- C. The use is not nearer than 300 feet from any off premises dwelling.
- D. The use complies with applicable State and Federal laws, rules, and regulations, including, but not limited to, those governing pollution control and environmental protection.
- E. Within ninety (90) days after the use ceases to be active, the site is restored to a condition equal to or better than that which existed before the use.

## Section 26.24 Contractors

### **B-1, B-2, B-3, P-T, I, FF-1, FF-2**

#### **26.24.1 B-1, B-2, B-3, P-T Standards:**

The ground floor premises facing upon and visible from any abutting street, shall be used only for entrances, offices or display. All storage of material or any incidental repair shall be within the confines of enclosed buildings or otherwise obscured from view.

#### **26.24.2 FF-1 & FF-2 Standards:**

Specified contractors uses may be permitted subject to the following standards including Planning Commission review:

- A. Use: Permitted Use include buildings to store equipment and materials associated with the following specific trades: landscapers, excavators, nurserymen, building contractors, plumbers, electricians, carpenters, pipe fitters, heating-cooling-refrigeration tradesmen, telephone and communication system installers, and similar trades/occupations, provided such individuals are fully licensed to operate in the State of Michigan if a license is required.
- B. Outside Storage: All primary storage/use activity shall be in enclosed buildings. Any outside storage that may be permitted shall be in areas effectively screened from public view.
- C. Owner Occupancy: Buildings and uses permitted shall only be approved on properties occupied by the owner and be the primary place of the owner's residence.
- D. Site Size: The minimum property size shall be ten (10) acres or larger by description.
- E. Building Limitations: The ground floor area of proposed buildings associated with the uses permitted shall not exceed an area of 2,400 sq. ft. One additional 2,400 sq. ft. building may be permitted on sites of 20 acres or more, by description, provided the two buildings are separated by at least forty (40) feet. One building up to 3,400 sq. ft. may be permitted if the applicant stipulates not to construct two (2) buildings for contractor uses.
- F. Signs: Accessory identification signs associated with the uses permitted pursuant to this Section shall not exceed an area of eight (8) sq. ft., and shall comply in all other respects with the sign section of this Ordinance.

Modifications to the standards listed in items B thru F above may be approved by the Planning Commission, if the intent of [Article 8](#) is kept and the surrounding properties are protected from nuisances.

## Section 26.25 Cemeteries

### **FF-1, FF-2, FR**

- A. All laws, ordinances, rules, and regulations established by Federal, State, and local governing bodies have been complied with. (See [1875 PA 88](#) and [1968 PA 251](#).)
- B. Cemetery boundaries shall be clearly identified (fencing, signage, etc.).
- C. The cemetery perimeter shall meet a minimum setback of forty (40) feet from a right-of-way and 100 feet from all side and rear property lines.

On the basis of findings at the Public Hearing, the Planning Commission may waive or modify standard C above where strict compliance is not necessary to protect the public health, safety or general welfare.

## Section 26.26 Airports and Landing Fields with Appurtenant Facilities

### **I, FF-1, FF-2, FR**

Operating characteristics shall not conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.).

## Section 26.27 Gasoline Service Stations/EV Stations

### **B-1, B-2**

- A. Major engine and body repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building. The storage of damaged or wrecked automobiles on the site shall be obscured from public view, and no vehicle of any kind shall be stored in the open for a period exceeding one (1) week.
- B. Gas pumps, air hose stands, EV charging stations, and other appurtenances shall meet all setback standards of the District. Parking spaces provided for refueling/charging shall meet setback standards for parking (per Section 22.02).

## Section 26.28 Auto Body/Vehicle Repair/Boat Repair/Oil Change

### **B-2, B-3, I**

Major engine and body repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building. The storage of damaged or wrecked automobiles on the site shall be obscured from public view.



**Section 26.29 Outdoor Vehicle/Equipment Sales****B-2, I**

Outdoor sales lots for automobile, trucks, motorcycles, all-terrain vehicles, boats and marine craft, recreation vehicles, manufactured homes, farm implements, contractors equipment/ vehicles, and similar units, new or used, subject to the following:

- A. No display shall be permitted in or within ten (10) feet of the right-of-way of any abutting road or highway.
- B. The use of racks, berms, platforms, or similar devices intended for the elevated display of units regulated shall be limited to not more than two, or one (1) per one hundred fifty (150) ft. of display lot road frontage, whichever is greater. No such display device shall elevate the under frame of a vehicle more than five (5) feet above the ground. Such display shall meet the setback ten (10) feet from the road right-of-way and shall be identified on the site plan.
- C. Display lot lighting shall comply with terms of **Section 22.06**, which shall apply whether or not the lighting is projected from buildings, private poles, or from utility company poles, i.e. as yard lights.
- D. The display of units regulated shall only be in areas indicated or designated on the site plan, and areas shall be differentiated as to the display units and/or inoperable units.
- E. The front setback line of the vehicle display area shall be marked by a permanent curb or other material(s) approved by the Planning Commission and shall be of sufficient height and stability to serve as a tire stop.

**Section 26.30 Storage Uses/Storage Building (including Mini-Storage)****B-2, B-3, I FF-1, FF-2****26.31.1 Standards in B-2, B-3, I**

- A. All proposed buildings nearest to the primary access road shall be site planned to be perpendicular to the road, or be positioned to the rear of other approved non-storage or non-warehouse buildings, or be setback at least three-hundred (300) feet from public road right-of-way lines.
- B. Intense, all season landscape screening, to effectively shield storage buildings from bordering public roads, per an approved Landscape Planting Plan which achieves screening upon installation of proposed plant materials. Refer to Section 22.04 for additional standards.

- C. Storage building with access on three (3) or more sides, must have vehicular access on all four (4) sides. Vehicle access drives must meet minimum setback standards.
- D. All incident or accessory storage shall be within the confines of an enclosed building. Wholesale uses may also include space for administrative offices, customer services, and interior display.
- E. Any loading docks or semi-trailer sized overhead doors shall not face upon a public road, or if no practical option is demonstrated, loading doors shall be setback at least seventy (70) feet from the front lot line or be structurally obscured from view.
- F. Storage uses shall not occupy property bordering lakes, or rivers (not intermittent) identifiable on the U.S. Geological Survey Maps of Emmet County.
- G. Sites proposed for wholesale uses may be rejected by the Planning Commission based on a determination that the use is improper or out of character with adjoining uses, by reason of:
  - 1. Breaking the continuity of a planned retail shopping center.
  - 2. Having direct visual exposure to tourist lodging facilities or other uses serving tourist markets.
  - 3. Sharing common road frontage with residential uses.

#### **26.31.2 Standards in FF-1 and FF-2**

- A. Storage buildings for recreation vehicles, boats, water craft and similar items, but not sales and/or servicing, or commercial warehousing.
- B. Owner Occupancy: Buildings and uses permitted shall only be approved on properties occupied by the owner and be the primary place of the owner's residence.
- C. Site Size: The minimum property size shall be ten (10) acres or larger by description.
- D. Building Limitations: The ground floor area of proposed buildings associated with the uses permitted shall not exceed an area of 2,400 sq. ft. One additional 2,400 sq. ft. building may be permitted on sites of 20 acres or more, by description, provided the two buildings are separated by at least forty (40) feet. One building up to 3,400 sq. ft. may be permitted if the applicant stipulates not to construct two (2) buildings for contractor uses.
- E. Signs: Accessory identification signs associated with the uses permitted pursuant to this Section shall not exceed an area of eight (8) sq. ft., and shall comply in all other respects with the sign section of this Ordinance.

Modifications to the standards listed in items 1 thru 5 above may be approved by the Planning Commission, if the intent of [Article 8](#) is kept and the surrounding properties are protected from nuisances.

## Section 26.31 Light and Heavy Industrial

### **B-2, B-3, I**

- A. Manufacturing, compounding or processing uses shall be conducted wholly within a completely enclosed building, except where allowed.
- B. Laboratories and any use involving the function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building, but excluding high risk products involving, radiation, explosives and the like
- C. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding or processing shall be totally obscured by a wall, fence or greenbelt when adjoining a zoning district other than I or B Districts.
- D. Manufacturing uses not including storage of finished products shall be located not less than eight hundred (800) feet distant from any Residential District and not less than three hundred (300) feet distant from any other district.

## Section 26.32 Septage Waste Facilities

### **I, FF-1, FF-2**

Sanitary sewer and domestic water supplies shall be constructed, installed and/or serviced as required by the applicable codes of the health service agencies having jurisdiction in Emmet County.

#### **26.33.1 Septage Waste Storage/Treatment**

Uses associated with septage waste include hauling vehicles, storage structures and related on-site facilities. Uses associated with septage shall be permitted in FF-1/FF-2 Farm Forest and I Industrial District by Special Use Permit, subject to review and approval by the Planning Commission and satisfying the following conditions:

- A. All uses approved under this Section must comply with the rules, regulations, and standards established by Federal, State, and local governing bodies.
- B. All structural elements shall be identified on the proposed site plans and shall provide minimum setbacks of:
  - 1. 500 feet from surface water,
  - 2. 100 feet from all wells.
- C. Above ground structures used for storage of septage waste must be surrounded by an engineered berm structure and shown on site plans. The berm represented on the site plans

must be sealed and certified by an engineer to contain the septage waste in the event of a catastrophic structural failure. Berms, natural tree stands, and/or planted vegetation used for screening may be prescribed as a condition of approval.

- D. Applicant must demonstrate on the proposed site plans, that the maximum groundwater table is at least 36 inches below both the final grade and any of the proposed structures, including underground storage tanks.
- E. Final approval by a health agency of jurisdiction and/or a State Department/Agency responsible for authorizing the use may be a condition of final approval.
- F. Additional requirements in Industrial Districts:
  - 1. Storage structures must be 50 feet from all lot lines.
  - 2. Storage structures must be below final grade as shown on site plans.
  - 3. Processing and handling of waste must take place within an enclosed building.
  - 4. Storage structures and processing facilities must be setback a minimum of 200 feet from non-industrial zones.
- G. Additional requirements in FF-1 and FF-2 - Farm and Forest Districts:
  - 1. The lot area shall be at least 10 acres with a minimum lot width of 660 feet.
  - 2. Structures must be 200 feet from a road right-of-way and property lines.

### **Section 26.33 Duplexes, Triplex, Quadplex**

#### **R-1, R-2, B-1, B-2, B-3, P-T, I FF-1, FF-2, FR**

- A. Duplex, Triplex and Quadplex structures must meet the setback standards of a single family dwelling and each unit must meet the minimum floor area standard of a single family dwelling.
- B. No duplex or duplex unit may be rented for periods of less than 30-days (e.g. no short-term rentals), except within the Business, Industrial and R-2 General Residential Zoning Districts.

### **Section 26.34 Accessory Uses on Commercial Farms**

#### **R-1, R-2, RR, SR, FF-1, FF-2**

#### **Intent**

It is the intent of these zoning provisions to:

- promote and maintain local farming,
- preserve open space and farmland,
- maintain the cultural heritage and a rural character,
- maintain and promote tourism,
- protect residential uses from negative impacts of commercial uses.

Specified commercial accessory uses may be permitted subject to the following standards including Planning Commission review:

**A. Permitted Accessory Uses**

The uses permitted pursuant to this Section may include one or more of the following: Social events which may include weddings, receptions, and similar social activities operated or intended to be operated as a commercial operation.

Uses permitted within this section must be clearly incidental to a “Farm Operation” as defined by the [Michigan Right to Farm Act \(1981 PA 93, as amended\)](#).

**B. Outside Activities**

All primary activities which involve sound systems or amplification systems shall be within a completely enclosed structure or sound systems or amplification systems may be located outside, but shall be setback a minimum of one thousand (1,000) feet from off-premises permanent dwellings.

The applicant may request a reduced setback if they can provide documentation showing they could meet the following standards: all primary activities which involve sound systems or sound amplification systems shall maintain a decibel level not to exceed seventy-five (75) dB(A) at any property line between the hours of 10 AM through 10 PM. All other hours, decibel levels may not exceed ambient sound levels.

**C. Owner Occupancy**

Buildings and uses permitted shall only be approved on properties or contiguous properties occupied by the owner/operator.

**D. Site Size and Setback**

The minimum property size shall be twenty (20) acres or larger by description, having at least six hundred (600) feet of lot width. The accessory use shall be setback a minimum of one hundred fifty (150) feet from the side and rear property lines and meet the front yard setback standard of the Zoning Ordinance. Setback standards shall apply to the accessory use and structures associated with the accessory use.

**E. Hours of Operation**

The Accessory Use shall be limited to the hours of 8 AM to 11 PM. The number of events per month shall be provided by the applicant to the Planning Commission and may be limited based on specific site conditions and the characteristics of the neighborhood.

**F. Building Limitations**

The ground floor area of proposed buildings associated with the uses permitted shall not

exceed an area of twenty-four hundred (2,400) square feet. Larger buildings may be considered by the Planning Commission based on specific site conditions and characteristics of the neighborhood.

**G. Parking**

Parking spaces shall be provided in accordance with the standards of [Section 22.02](#) of this Ordinance except that parking areas shall be setback a minimum of one hundred (100) feet from the side and rear property lines and forty (40) feet from the road right-of-way. Parking shall be adequate to accommodate all users and uses on-site. Parking shall be kept in a natural vegetated condition to the greatest extent possible.

**H. Screening**

The accessory use shall be effectively screened from adjacent properties in accordance with the standards of [Section 22.04.2](#).

**I. Lighting**

Lighting shall meet the Standards of [Section 22.06](#) of this Ordinance.

**J. Signs**

Accessory signs shall follow the Standards of [Section 22.07](#) of this Ordinance.

Uses listed above are subject to review on a case-by-case basis and may be approved by the Planning Commission, if the intent of the Zoning Ordinance and this [Section 26.34](#) are kept and the surrounding properties are protected from nuisances. These standards shall not apply to private (non-commercial) similar uses on properties used for residential purposes and which occur on an occasional basis (four times per year or less).

## Section 26.35 Wineries and Hard Cider Operations

### **R-1, R-2, RR, SR, FF-1, FF-2**

**Intent**

It is the intent of these zoning provisions to:

- promote and maintain local farming,
- preserve open space and farmland,
- maintain the cultural heritage and a rural character,
- maintain and promote tourism,
- protect residential uses from negative impacts of commercial uses.

Wineries and hard cider operations may be permitted in any Zoning District which permits commercial farms subject to the following:

**A. Permitted Accessory Uses**

Wineries and Hard Cider Operations may be permitted by the Planning Commission on properties actively used for agriculture. All required licenses and approvals shall be obtained by the appropriate state and federal agencies prior to operation of the winery.

Winery may include those land uses/activities permitted by the [Michigan Liquor Control Commission's](#) Michigan Wine Maker and Small Wine Maker license.

**B. Site Size**

The minimum property size shall be twenty (20) acres or larger by description, having at least six hundred (600) feet of lot width and at six hundred (600) feet of lot depth. A minimum of ten (10) acres of the parcel must be in active agricultural production or open space as determined by the Planning Commission.

**C. On-premise Consumption**

Consumption of the alcoholic beverages on the site shall be limited to tasting room quantities. The facility shall not function as a bar as defined in this Ordinance. Supplemental food services may be provided. Supplemental food services, if proposed, must be clearly incidental to the agricultural operation and must be demonstrated as such by the applicant. Minimum Health Agency standards shall be met. Only beverages produced by the licensed facility may be sold on site (non-alcoholic beverages are excluded from this standard).

**D. Hours of Operation**

The Winery Operations shall be limited to the hours of 10AM to 10PM.

**E. Building Limitations**

The floor area of retail sales area, including the tasting room, shall be no more than twenty-five (25) percent of the floor area devoted to the winery, but in no case shall it occupy more than two-thousand (2,000) sq. ft. of floor area.

**F. Parking**

Off-street parking spaces shall be provided in accordance with the standards of Section 22.02 of this Ordinance, except that 1) parking areas shall be setback a minimum of fifty (50) feet from all property lines, and 2) adequate parking shall be provided for all uses on the property. Driveway access must meet the minimum standards of the Road Agency having jurisdiction.

**G. Screening**

The parking area shall be effectively screened from adjacent properties as determined by the Planning Commission.

**H. Lighting**

Outdoor lighting shall meet the Standards of [Section 22.06](#) of this Ordinance.

**I. Signs**

Accessory signs shall follow the Standards of [Section 22.07](#) of this Ordinance.

**J. Fire Protection**

The winery shall only be approved upon approval of the use and site plan by the Fire Chief whose department serves the property.

Modifications to the standards listed in items B thru J above may be approved by the Planning

Commission, if the intent of the Zoning Ordinance is kept and the surrounding properties are protected from nuisances."

## Section 26.36 Solar Installations

### **R-1, R-2, RR, SR, B-1, B-2, B-3, P-T, I, FF-1, FF-2, FR**

**Intent and Purpose:** To allow and promote the use of solar installations within the County as a clean alternative energy source and to provide associated placement, land development, installation, and construction regulations for roof-mounted, ground-mounted, and utility-scale solar farm facilities subject to reasonable conditions that will protect the residents' public health, safety and welfare. These regulations establish the minimum requirements for utility-scale solar installations, while promoting a renewable energy source in a safe, effective and efficient manner.

- A. Solar installations will be allowed by right, permitted or a special land use as referenced in the following table.

Zoning District	Roof-mounted	Ground-mounted	Utility-Scale
One-Family and Two-Family Residential (R-1)	Allowed by right	Permitted as an Accessory Use	
General Residential (R-2)	Allowed by right	Permitted as an Accessory Use	
Recreational Residential (RR)	Allowed by right	Permitted as an Accessory Use	
Scenic Resource (SR)	Allowed by right	Permitted as an Accessory Use	
Farm and Forest (FF-1)	Allowed by right	Permitted as an Accessory Use	Special Land Use <b>§21.00</b>
Farm and Forest (FF-2)	Allowed by right	Permitted as an Accessory Use	Special Land Use <b>§21.00</b>
Forest Recreation (FR)	Allowed by right	Permitted as an Accessory Use	Special Land Use <b>§21.00</b>
Local Tourist Business (B-1)	Allowed by right	Permitted as an Accessory Use	
General Business (B-2)	Allowed by right	Permitted as an Accessory Use	
Commercial / Industrial (B-3)	Allowed by right	Permitted as an Accessory Use	
Parking Transition (P-T)	Allowed by right	Permitted as an Accessory Use	
Industrial	Allowed by right	Permitted as an Accessory Use	Special Land Use <b>§21.00</b>
Planned Unit Development Residential Overlay (PUD-RO)	Allowed by right	Permitted as an Accessory Use	
Planned Unit Development (PUD)	Allowed by right	Permitted as an Accessory Use	

### B. Standards Based on Solar Installation

#### 1. Roof-Mounted Solar Installations:

Roof-mounted solar installations may be installed without a zoning permit provided the following standards are met:

- a. **Height.** The height of the roof-mounted solar installation shall not exceed the maximum allowed height for the structure it is mounted on in any zoning district.



- b. **Setback.** Roof-mounted solar installations shall be considered part of the building and meet all applicable building setbacks.
- c. **Placement.** Roof-mounted solar installations may be permitted on principal or accessory buildings. The color of the solar collector is not required to be consistent with other roofing materials.
- d. **Coverage.** Roof-mounted solar installations shall be allowed to cover the entire roof upon which they are mounted.
- e. **Visibility and Glare.** Roof-mounted solar installations shall be mounted or oriented so that concentrated solar glare will not be directed toward or onto nearby properties or rights-of-way at any time of the day. Support structures shall be of a single, non-reflective matte finish that is consistent throughout the project.
- f. **Pellston Regional Airport Exception.** Solar installations proposed within lands identified by the Pellston Regional Airport Approach Plan (AAP) shall be reviewed by the Planning Commission, following the review and recommendation by the Pellston Regional Airport Committee. Solar glare studies may be required to be submitted as part of the solar installation proposal and reviewed by the Planning Commission prior to reaching a final decision.

## 2. **Ground-Mounted Solar Installations:**

Ground-mounted solar installations may be installed with a zoning permit following review and approval by the zoning administrator provided the following standards are met:

- a. **Height.** The maximum height of a ground-mounted solar installation shall be sixteen (16) feet above grade at maximum tilt.
- b. **Setbacks.** Ground-mounted solar installations shall comply with all district required setbacks.
- c. **Placement.** Ground-mounted solar installations shall only be allowed in the rear, side or front yard with an established permitted principal use. The placement of ground-mounted solar installation in the front yard shall be at least 100 feet back from the front property line.
- d. **Coverage.** The area of the ground-mounted solar installation energy collection system shall not count as an accessory building unless the pad underneath the installation is constructed with a hard impervious surface. The area of the ground-mounted solar installation shall not exceed one (1) acre in area.
- e. **Visibility and Glare.** Ground-mounted solar installations shall be mounted or oriented so that concentrated solar glare will not be directed toward or onto nearby properties or rights-of-way at any time of the day. Systems designed to track the maximum sun angle throughout the day shall be programmed to prevent positioning

at any point that would result in glare directed toward nearby properties or rights-of-way. Support structures shall be of a single, non-reflective matte finish that is consistent throughout the project.

- f. **Pellston Regional Airport Exemption.** Solar installations proposed within lands identified by the Pellston Regional Airport Approach Plan (AAP) shall be reviewed by the Planning Commission, following the review and recommendation by the Pellston Regional Airport Committee. Solar glare studies may be required to be submitted as part of the solar installation proposal and reviewed by the Planning Commission prior to reaching a final decision.

### 3. Utility-Scale Solar

Each utility-scale solar farm is permitted as a use authorized by special land use permit which review will consider its compatibility with the surrounding area. Utility-Scale Solar shall include all ground mounted solar installations over one acre in size and must meet the following standards:

- a. **Lot Size.** The lot size shall meet the minimum lot size of the zoning district in which the installation is located. Combining lots under lease or through ownership is permitted.
- b. **Height Restrictions.** All photovoltaic solar panels and support structures located in a utility-scale solar farm shall be restricted to a maximum height of sixteen (16) feet when orientated at maximum tilt.
- c. **Setbacks.** All photovoltaic solar panels and support structures associated with such facilities (excluding perimeter fencing) shall be set back a minimum of fifty (50) feet from all property lines. If the rights-of-way exists as an easement, the fifty (50) foot setback shall be measured from the edge of the easement. Solar panels shall be kept at least two hundred (200) feet from an off-premise residential dwelling, measured to the nearest point on the residential structure. Any additional setback requirements in this Ordinance that exceed this requirement shall be adhered to, including but not limited to setbacks from streams, lakes, and wetlands.
- d. **Maximum Lot Coverage.** Maximum lot coverage restrictions shall not apply to the photovoltaic solar panels. Any other regulated structures on the parcel are subject to the maximum lot coverage restrictions of the underlying zoning district.
- e. **Safety/Access.** A security fence (height and material to be proposed and reviewed/approved through the special use permit approval process) shall be placed around the perimeter of the utility-scale solar farm and electrical equipment. Fences shall not extend into the required setbacks. Knox boxes and keys shall be provided at locked entrances for security personnel access. Depending on the location of utility-scale solar installation the Planning Commission may waive the requirement for a security fence.

- f. **Noise.** No utility-scale solar farm shall exceed sixty (60) dBA as measured at the property line.
- g. **Glare.** Utility-scale solar farm facilities shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or rights-of-way at any time of the day. Support structures shall be of a single, non-reflective matte finish that is consistent throughout the project.
- h. **Landscaping.** The special use permit application for a utility-scale solar farm shall include a proposed landscape plan prepared by a licensed landscape architect. This plan will be reviewed through the special use permit approval process to assure that the proposed facility is appropriately landscaped in relation to adjacent land uses and road rights-of-way. Depending on the location of the utility-scale solar installation the Planning Commission has the discretion to increase or decrease the amount of landscaping required. A landscape plan shall meet following standards:
  - (1) **Plans.** A plan view illustrating the landscape plan for the entire project and a rendered view illustrating the view from public rights-of-ways.
  - (2) **Species.** Plant materials shall comply with “Recommended Planting Guidelines for Municipalities,” published by the Northwest Michigan Invasive Species Network.
  - (3) **Buffer.** A twenty-five (25) foot wide landscape buffer shall consist of two (2) rows of staggered evergreen trees that at planting shall be a minimum of four (4) feet in height. If a utility-scale solar farm is adjacent to a residential dwelling or district, then the minimum height shall be eight (8) feet at the time of planting. The evergreen trees shall be spaced no more than fifteen (15) feet apart on center, measured from the central trunk of one tree to the central trunk of the next tree. The buffer shall also consist of native grasses, wildflowers, or plants which will provide wildlife and pollinator habitat, soil erosion protection, and/or aid in strengthening the soil structure. The buffer shall be required under the following conditions:
    - I. Along the property line adjacent to all residential zoning districts or residential occupied properties.
    - II. If solar panels are located within two hundred (200) feet of a public road rights-of-way
    - III. Along the property line for the portion of the project within a two hundred (200) foot radius of a residential dwelling in a non-residential zoning district
  - (4) **Credit for Existing Conditions.** Existing topographical features and existing wooded areas may be accepted in lieu of or in combination with the above by approval of the Planning Commission.

- (5) **Planting Timeline.** The required trees shall be planted between May 1st and September 15th. If construction of the utility-scale installations begins after August 15th, the required plantings shall be installed by June 1st the following calendar year.
- (6) **Financial Guarantee.** A bond, letter of credit, or cash surety shall be provided in the amount equal to one and one-half (1.5) times the cost of the required plantings that the County shall hold until the next planting season.
- (7) **Maintenance.** The required plantings shall be continuously maintained in a healthy condition for the life of the project. Dead plant material shall be replaced.
- i. **Local, State, and Federal Permits.** Utility-scale solar farms shall be required to obtain all necessary permits and licensing prior to construction and shall maintain any necessary approvals as required by the respective jurisdictions or agencies.
- j. **Electrical Interconnections.** All electrical interconnections or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements and applicant shall be required to obtain any necessary permits and licensing from the utility company. The on-site electrical lines connecting the Utility-Scale Solar installation to the public utility electricity distribution system shall be located underground wherever possible as determined by the Planning Commission.
- k. **Pellston Regional Airport Supplemental Standards.** Solar installations proposed within lands identified by the Pellston Regional Airport Approach Plan (AAP) shall be reviewed by the Planning Commission, following the review and recommendation by the Pellston Regional Airport Committee. Solar glare studies may be required to be submitted as part of the utility-scale solar installation proposal and reviewed by the Planning Commission prior to reaching a final decision.
- l. **Application Requirements.** In addition to the site plan review criteria in [Article 20](#) and special land use criteria in [Article 21](#), the applicant shall address the following topics in the application for a utility-scale solar farm facility:
- (1) **Project Description and Rationale.** Identify the type, size, rated power output, performance, safety and noise characteristics of the system including the transmission line/grid connection for the project. Identify the project construction time frame, project life, development phases (and potential future expansions) and likely markets for the generated energy.
- (2) **Analysis of On-Site Jobs.** Estimated construction jobs and estimated permanent jobs associated with the development.

- (3) **Visual Impacts.** Graphically demonstrate the visual impact of the project using photos or renditions of the project with consideration given to setbacks and proposed landscaping.
- (4) **Environmental Analysis.** Identify impacts on surface and ground water quality and any impacts to established natural or constructed drainage features in the area.
- (5) **Waste.** Identify any solid or hazardous waste generated by the project.
- (6) **Lighting.** Refer to [Section 22.06](#).
- (7) **Transportation Plan.** Provide a proposed access plan during construction and operational phases. Show proposed project service road ingress and egress locations onto adjacent roadways and the layout of facility service road system. Due to infrequent access following construction, it is not required to pave or curb utility-scale solar farm access drives, unless required by the road agency having jurisdiction. It shall be required to pave and curb any driveways and parking lots used for occupied offices that are located on site.
- (8) **Public Safety.** Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public rights-of-way and to the general public that may be created.
- (9) **Sound Limitations.** Identify noise levels at the property lines of the project when completed and operational.
- (10) **Telecommunications Interference.** Identify any electromagnetic fields and communications interference that may be generated and address how any identified interference will be eliminated or mitigated.
- (11) **Complaint Resolution.** The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Emmet County from acting on a complaint.
- (12) **Life of the Project and Final Reclamation.** Describe the decommissioning and final reclamation plan after the anticipated useful life or abandonment and/or termination of the project. At a minimum, this includes the following:
  - I. Details regarding removal of panels, foundations, transmission lines, facility road systems, and other structures existing on the site.

- II. Plans for site restoration and the re-establishment of natural features to pre-development conditions, including but not limited to soils, vegetation, hydrology, and other environmental features present on the site.
- III. Supplying evidence of an agreement with the underlying property owner(s) that ensures proper removal of all equipment and restoration of the site within six (6) months of decommissioning or abandonment of the project.

To ensure proper removal of the project upon abandonment/termination, a bond, letter of credit or cash surety shall be:

- I. In an amount approved by the Planning Commission to be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. When determining the amount of each required security, the Planning Commission may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor).
- II. Based on an estimate prepared by the engineer for the applicant, subject to approval of the Planning Commission.
- III. Provided to the County prior to the issuance of a zoning permit.
- IV. Used in the event the owner of the project or the underlying property owner(s) fails to remove or repair any defective, abandoned or terminated project. The County, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the project and recover any and all costs, including attorney fees.
- V. Kept in full force and effect during the entire time that the solar farm exists or is in place, and such financial security shall be irrevocable and noncancelable.

### **Section 26.37 Accessory Dwelling Units**

#### **R-1, R-2, RR, SR, FF-1, FF-2, FR**

A. Intent and Purpose: The intent of the allowed use of accessory dwelling units is to provide homeowners with a means of accommodating extended families, companionship, security, or services through tenancy, and creating and diversifying housing options within already existing built environments and neighborhoods while preserving and maintaining the residential character of the neighborhood and districts in which they are placed.

Accessory Dwellings Units may be permitted by the Zoning Administrator in the R-1, R-2, RR, SR, P/T, FF-1 and FF-2 districts subject to all of the following standards:

- A. An accessory dwelling unit shall be limited to one (1) per lot of record.
- B. An accessory dwelling unit must be clearly incidental to the primary dwelling to which it is accessory.
- C. An accessory dwelling unit shall be no larger than 75% of the ground floor area of the principal structure to which it is accessory, or 800 square feet, whichever is less. In no case shall an accessory dwelling unit be less than 200 square feet.
- D. The accessory dwelling unit shall be designed and constructed of materials to be consistent with existing dwellings in the vicinity, so as not to have a devaluing influence, in the opinion of the Zoning Administrator. The applicant shall provide elevation sketches and floor plans of the proposed structure in order to assist in the determination of architectural variance.
- E. A lot split effectively separating an accessory dwelling unit from the primary dwelling unit is not allowed, unless it meets the minimum floor area requirement for a principal dwelling of its respective zoning district, in addition to all other applicable zoning standards.
- F. The accessory dwelling unit shall be exempt from the minimum building width requirements.
- G. A minimum of one (1) parking space shall be provided for the accessory dwelling unit, in addition to the minimum number of parking spaces required for single family dwellings existing on the lot.
- H. The maximum height of the accessory dwelling unit shall not exceed that of the principal structure to which it is accessory.
- I. The accessory dwelling unit is required to have all necessary provisions required of a dwelling unit, as defined in section 2.01 of this zoning ordinance.
- J. The use of a camper trailer, recreational vehicle, or other temporary and/or other non-permanent structures shall be prohibited as an Accessory Dwelling Unit.
- K. An Accessory Dwelling Unit may have a basement. A basement shall not count towards the square footage of the Accessory Dwelling Unit.
- L. The Accessory Dwelling Unit shall be adequately served by an on-site septic system or sanitary sewer. The applicant shall provide verification of sanitary services.
- M. The ADU shall have its own entrance, kitchen, sleeping area, and full bathroom facilities separate from those associated with the principal dwelling unit. The ADU may be located within or above an attached or detached residential accessory building, be a freestanding detached unit, or be attached to the primary dwelling.
- N. No ADU may be rented for periods of less than 30-days (i.e. no short-term rentals), except within the R-2 Zoning District.

### **Section 26.38 Residential Building Clustering Plan**

#### **R-1, R-2, RR, SR, FF-1, FF-2, FR**

Subject to a Public Hearing, the Planning Commission may consider Cluster Housing Plans, subject to the following conditions:

- A. The gross dwelling unit density shall not exceed the maximum allowable for detached single family homes in the same District.

- B. Common open space areas dedicated for the use of residents in the development shall be shown on the Site Plan and the full extent of planned uses in the open space shown.
- C. Based on site features of topography, scenic view planes, surface water and vegetation; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses, and essential community services; the Planning Commission may limit a cluster housing to no more than four (4) dwellings per cluster. If appropriate, a mixture of cluster housing, one story garden apartments and single family housing may be required to attain a compatible land use transition with adjoining properties.
- D. As determined by the Planning Commission on the basis of existing subdivisions, proposed subdivisions, existing homes, the level of road services, and any local or county plans for the area, the development does not break-up an established or evolving one family detached housing pattern.
- E. Because of the nature of cluster housing units and their greater demand for community type structures, including, but not necessarily limited to: club houses, swimming pools, tennis courts, carports, garages and maintenance buildings, and the like, the Planning Commission may specifically rule on the height, bulk, and/or location of buildings and all accessory facilities on the property, to harmonize with and be in character with uses on adjacent sites. The Planning Commission may exclude such accessory facilities where it determines such facilities would conflict with uses on adjacent sites.
- F. A site proposed for the cluster housing option shall have a contiguous area (not divided by an existing public road) of at least twenty (20) acres, exclusive of existing road rights-of-way, and shall have at least 590 feet of frontage on a public road. Smaller and narrower sites may be approved by the Planning Commission in allowable Districts if one or more of the following apply:
  - 1. It borders R-2, B-1, B-2, I-1 or I-2 zoned properties and would be a suitable transition use with detached housing areas.
  - 2. It abuts an existing cluster housing development and would be a suitable location for additional cluster housing uses in the opinion of the Planning Commission.
  - 3. It borders a State Trunkline Highway.
- G. The applicant or developer can construct a sanitary sewer system and domestic water system that will pass Health Department requirements.
- H. A Site Plan is submitted according to the terms of [Article 20](#).
- I. A Building Cluster Plan shall not be approved without first considering the recommendations of the Township Board or the Township's designated review agency in the affected Township.



**Section 26.39 Residential Building Clustering Plan – R-2, FF-1, FF-2****R-2, FF-1, FF-2****INTENT**

The intent of the Cluster Housing provisions is to provide flexibility in housing styles and types, encourage innovative site design, reduce the cost of infrastructure, preserve natural and sensitive landscapes, provide needed and affordable workforce housing, and offer residents the opportunity to utilize shared common open space.

Residential Building Clustering Plans may be reviewed and approved by the Zoning Administrator subject to the following:

For the purpose of this section, Cluster Housing refers to a development in which homes are situated in groupings relatively close together, while larger areas of open space within the development, protect and preserve sensitive and natural features, and form a buffer from adjacent land uses. Cluster housing may include single-family detached units, and attached units, such as townhouses or dormitory-style housing or a combination of group-style housing provided the following standards are met:

- A. The gross dwelling unit density shall not exceed the maximum allowable for detached single family homes in the same District.
- B. Common open space areas dedicated for the use of residents in the development shall be shown on the Site Plan and the full extent of planned uses in the open space shown. Cluster housing developments shall provide not less than 20 percent of the gross site area for common open space which shall be primarily concentrated in large areas. Storm water detention or retention facilities shall not be included in the calculation for open space.
- C. The cluster housing plan shall maintain a minimum perimeter setback of 50 feet from the side and rear property lines. The cluster housing plan shall maintain a front yard setback of 40 feet.
- D. The maximum number of dwelling units allowed by this Section is 30.
- E. Parking may be applied to the entire site, rather than to each individual lot. Parking areas shall be placed in easily accessible locations. Designated parking spaces should be clearly marked. Parking shall be provided at the rate of 1 per unit.
- F. Community type structures, shared living areas (bathrooms, kitchens, etc.) may be authorized up to a maximum size of 1,200 sq. ft. and 20 feet in height. No more than one such building may be approved under this section.
- G. Cluster housing plans considered under this section shall be permitted in the R-2, FF-1 & FF-2 Farm and Forest Zoning Districts.

- H. A site proposed for the cluster housing option shall have a contiguous area (not divided by an existing public road) of at least ten (10) acres, exclusive of existing road rights-of-way, and shall have at least 150 feet of frontage on a public road.
- I. The site shall be served by sanitary sewer or the applicant or developer shall demonstrate that a sanitary sewer system and water system can be constructed that will pass Health Department requirements. At a minimum, a preliminary health department site evaluation will be required.
- J. No minimum size is required for each dwelling unit within the cluster housing plan, provided the applicant shows each dwelling will provide facilities for eating, sleeping, cooking, and sanitation.
- K. Unless listed otherwise within this Section, Cluster Housing Standards shall comply with Article 19 Schedule of Regulations.
- L. A Site Plan is submitted according to the standards of [Article 20](#).
- M. No Cluster Housing units may be rented for periods of less than 30-days (i.e. no short-term rentals), except within the R-2 Zoning District.

## Section 26.40 Transitional Housing Facility

### R-2, B-1, B-2, B-3, P-T, FF-1, FF-2

#### **26.40.1 Intent.**

The purpose of this section is to allow reasonable consideration of transitional housing facilities, as defined by this Ordinance, and to ensure that such housing does not alter the fundamental character of the community in which they are located. This section is further intended to advance legitimate governmental interests by regulating transitional homes in a manner that ensures that the use of land is situated in appropriate locations and with proper relationships particularly to the surrounding land uses, limits inappropriate overcrowding of land or particular uses and/or congestion of population, and ensures that public streets and facilities are not overburdened. Such transitional housing shall be planned, designed and located in a manner that protects public health, safety and welfare.

#### **26.40.2 Applicability.**

The provisions of this section shall be applicable to various types of transitional and permanent homes which occupy dwellings or other structures. The Planning Commission may approve a transitional housing facility subject to and in accordance with this section and Article 21 of this Ordinance.

#### **26.40.3 Conditions of Approval.**

As a condition to approval of a transitional housing facility, the applicant must comply with all the terms of this section and Article 21, and must demonstrate all of the following:

- A. Taking into consideration the needs, facts, and circumstances which exist throughout the County and the population to be served by the use, the proposed transitional housing facility shall be necessary to afford such persons served by the home an opportunity to reside in and enjoy the County;
- B. Approval of the proposed housing shall not require or will not likely result in a fundamental alteration in the nature of the Zoning District and neighborhood in which the property is situated or result in an excess concentration of such proposed housing in a particular area, considering the cumulative impact of one (1) or more other uses and activities in, or likely to be in, the area, and shall not impose undue financial and administrative burdens. The interests of the County shall be balanced against the need for accommodation on a case-by-case basis; and
- C. No other specific Ordinance provision exists that is available to provide the relief sought.

#### **26.40.4 Application Provisions.**

The application for a transitional housing facility shall include the following:

- A. A plot plan drawn to scale showing the proposed use and development. At a minimum, the plan shall include the following information:
  - 1. Evidence of ownership; location and description of site; dimensions and areas;
  - 2. Scale, north arrow, date of plan;
  - 3. Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing buildings, drives and streets on the site and within 100 feet of the site;
  - 4. Location, type and land area of each proposed land use; dwelling unit density (dwelling units per acre);
  - 5. General description of proposed water, sanitary and storm drainage systems;
  - 6. Existing natural and man-made features to be preserved or removed; location of existing structures, streets and drives; location, width and purpose of existing easements;

7. General location, function, surface width and rights of way of proposed public and private streets;
  8. General location of proposed parking and number of spaces required and provided.
- B. A separate document that provides the number of residents served, resident services provided and the anticipated length of stay, and staffing and duties performed.

#### **26.40.5 Standards and Regulations.**

In order to be entitled to the approval of a transitional housing facility, the following must be demonstrated by the applicant:

- A. All the requirements for entitlement to approval under subsection 26.40.3 shall be met;
- B. The intensity of the use (e.g., number of residents in the residential facility) shall be the minimum required in order to achieve feasibility of the use; and
- C. The use, and all improvements on the property shall be designed and constructed to meet the following standards and conditions:
  1. Taking into consideration the size, location and character of the proposed use, the proposed use shall be established in such a manner to fit the character of the neighborhood or immediate vicinity as determined by the application of generally accepted planning standards and/or principles, with:
    - a. The surrounding uses; and/or
    - b. The orderly development of the surrounding neighborhood and/or vicinity.
  2. The proposed use shall be designed to ensure that vehicular and pedestrian traffic shall be no more hazardous than is normal for the district involved, taking into consideration traffic volume, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and pedestrian traffic safety. Road agency approval for the access and the use shall be required.
  3. The proposed use shall be designed and operated so as not to create a nuisance upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light and/or vibration. The proposed use shall be designed to fit into the character of the neighborhood, in terms of aesthetics;

4. The proposed use shall be such that the location and height of buildings or structures and location, nature and height of walls, fences and landscaping meet the standards of Articles 19 and 22; and
5. The proposed use shall be designed and operated so as not to cause substantial injury to the other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district. The Planning Commission shall consider impact on community services such as parking needs, utility capacity, neighborhood character and the like.

#### **26.40.6 Design Standards.**

All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply, subject to the right of the Planning Commission to alter and supplement such standards and regulations the Planning Commission finds to be needed and reasonably proportionate to the impacts of the use given the facts and circumstances attendant to a particular case. In rendering a decision, the Planning Commission will weigh the need or extent of the accommodation which may be required against the spirit of this section to ensure that public safety is secured and substantial justice done, and that the essential character of the neighborhood and/or district is not altered.

#### **26.40.7 Conditions.**

In connection with the approval of a transitional housing facility, the Planning Commission may impose reasonable conditions to ensure compliance with the standards, requirements and intent of this Section and this Ordinance.

#### **26.40.8 Effect of Approval.**

The effect of an approval under this section shall be for the exclusive benefit and occupancy of such persons in need of transitional housing as represented by the applicant. If a change in such use occurs such that it is occupied by others, the regulations applicable within the district in which the property is situated shall thereupon immediately and fully apply. An approval under this section shall not be final until such time as the applicant records an affidavit at the office of the register of deeds in connection with the property, in a form approved by the County Attorney, providing notice of the terms of this provision.

An approval under this section shall be effective for a period of one (1) year and shall thereafter be void unless there is an occurrence of actual occupancy by persons for whom the transitional home has been made in granting approval.

## Section 26.41 Special Accommodation Use

### R-1, R-2, B-1, B-2, B-3, P-T, FF-1, FF-2

#### **26.41.1 Intent.**

This section is intended to authorize the grant of relief from the strict terms of this Ordinance for Transitional Housing Facilities in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under state or federal law, such as but not limited to, the Federal Fair Housing Act, as amended, 42 USC § 3604(f)(1) *et seq*, the Americans with Disabilities Act, as amended, 42 USC §12131 *et seq*, and the Rehabilitation Act, as amended, 29 USC §794(a). This Section of the Ordinance responds to the prohibition of housing discrimination based on a disability which is defined as:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such a physical or mental impairment that limits one or more of such person's major life activities.

This section is further intended to advance a legitimate governmental interest by regulating special accommodation uses in a manner that ensures that the use of land is situated in appropriate locations and with proper relationships particularly to the surrounding land uses, limits inappropriate overcrowding of land or particular uses and/or congestion of population, and ensures that public streets and facilities are not overburdened.

#### **26.41.2 Applicability.**

The provisions of this section shall be applicable to various types of transitional and permanent homes and structures which occupy dwellings and may include, but not be limited to, adult foster care large group homes and congregate facilities, and transitional housing facilities. The County Zoning Administrator and/or his/her designee may approve a special accommodation use, subject to and in accordance with this section. It is the further the intent of this ordinance that a transitional housing facility granted a special use accommodation will be exempt from applying for or obtaining special land use approval under Article 21.

#### **26.41.3 Conditions of Approval.**

As a condition to approval of a special accommodation use, the applicant must comply with all the terms of this section, and must demonstrate all of the following:

- A. The ultimate residential user or users of the property shall be persons for whom state or federal law mandates the County to make reasonable accommodations in connection with proposed uses of land under the existing circumstances;
- B. Taking into consideration the needs, facts, and circumstances which exist throughout the County and the population to be served by the use, the proposed reasonable accommodation shall be necessary to afford such person equal opportunity to the proposed use and enjoyment within the County;
- C. Approval of the proposed housing shall not require or will not likely result in a fundamental alteration in the nature of the Zoning District and neighborhood in which the property is situated or result in an excess concentration of such proposed housing in a particular area, considering cumulative impact of one (1) or more other uses and activities in, or likely to be in, the area, and shall not impose undue financial and administrative burden. The interests of the County shall be balanced against the need for accommodation on a case-by-case basis; and
- D. No other specific Ordinance provision exists that is available to provide the relief sought.

#### **26.41.4 Application Provisions.**

The application for a special accommodation use shall include the following:

- A. A plot plan drawn to scale showing the proposed use and development. At a minimum, the plan shall include the following information:
  - 1. Evidence of ownership; location and description of site; dimensions and areas;
  - 2. Scale, north arrow, date of plan;
  - 3. Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing buildings, drives and streets on the site and within 100 feet of the site;
  - 4. Location, type and land area of each proposed land use; dwelling unit density (dwelling units per acre);
  - 5. General description of proposed water, sanitary and storm drainage systems;
  - 6. Existing natural and man-made features to be preserved or removed; location of existing structures, streets and drives; location, width and purpose of existing easements;

7. General location, function, surface width and rights of way of proposed public and private streets;
  8. General location of proposed parking and number of spaces required and provided.
- B. A separate document that provides the following:
1. A summary of the basis on which the applicant asserts entitlement to approval of a special accommodation use, covering each of the requirements of subsections 26.41.3, 26.41.4, 26.41.5, and 26.41.6 of this section.
  2. The number of residents served, resident services provided and the anticipated length of stay, and staffing and duties performed.

#### **26.41.5 Standards and Regulations.**

In order to determine whether a special accommodation use should be granted, the need to provide a reasonable accommodation under State or Federal law shall be considered and weighed by the County in relationship to the following:

- A. If the proposed housing does not constitute a permitted use in the zoning district in which the property is situated, the intensity of the use (e.g., number of residents in the residential facility) shall be the minimum required in order to achieve feasibility of the use; and
- B. The use, and all improvements on the property shall be designed and constructed to meet the following standards and conditions:
  1. Taking into consideration the size, location and character of the proposed use, the proposed use shall be established in such a manner which fits into the character of the vicinity, as determined by the application of generally accepted planning standards and/or principles, with:
    - a. The surrounding uses; and/or
    - b. The orderly development of the surrounding neighborhood and/or vicinity.
  2. The proposed use shall be designed to ensure that vehicular and pedestrian traffic shall be no more hazardous than is normal for the district involved, taking into consideration traffic volume, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and pedestrian traffic safety. Road agency shall review the access to determine compliance with access;



3. The proposed use shall be designed and operated so as not create a nuisance upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light and/or vibration. The proposed use shall be designed to fit into the character of the neighborhood, in terms of aesthetics;
4. The proposed use shall be designed and operated so as not to create a nuisance upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light and/or vibration. The proposed use shall be designed to fit into the character of the neighborhood, in terms of aesthetics;
5. The proposed use shall be such that the location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings and will not have a detrimental effect upon their value;
6. The proposed use shall be designed and operated so as not to cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

#### **26.41.6 Design Standards.**

All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply, subject to the right of the County Zoning Administrator and/or his/her designee to alter and supplement such standards and regulations the County Zoning Administrator and/or his/her designee finds to be needed and reasonably proportionate to the impacts of the use given the facts and circumstances attendant to a particular case. In rendering a decision, the County Zoning Administrator and/or his/her designee will weigh the need or extent of the accommodation which may be required against the spirit of this section to ensure that public safety is secured, and substantial justice done, and that the essential character of the neighborhood and/or district is not altered.

#### **26.41.7 Conditions.**

In connection with the approval of a special accommodation use, the Planning Commission may impose such conditions as are authorized by law.

#### **26.41.8 Effect of Approval.**

- A. Approval of a special accommodation use shall be solely for the benefit of the particular class of users who were the basis of requiring the County to make a reasonable accommodation under applicable state and/or federal law, and not for the benefit of any other persons. Accordingly, the effect of an approval under this section shall be for the exclusive benefit and occupancy of such class of persons. If

a change in such use occurs such that it is occupied by others, the regulations applicable within the district in which the property is situated shall thereupon immediately and fully apply. An approval under this section shall not be final until such time as the applicant records an affidavit at the office of the register of deeds in connection with the property, in a form approved by the County Attorney, providing notice of the terms of this provision.

- B. An approval under this section shall be effective for a period of one (1) year and shall thereafter be void unless there is an occurrence of actual occupancy by persons for whom the special accommodation has been made in granting approval.

# Article 27

## Administration

<u>Section</u>	<u>Name</u>	<u>Pg</u>	<u>Section</u>	<u>Name</u>	<u>Pg</u>
27.00	Duties of Zoning Administrator	27-1	27.09	Violations and Penalties	27-8
27.01	Zoning Permit	27-1	27.10	Stop Work Order	27-8
27.02	Reserved	27-3	27.11	Amendments	27-8
27.03	Fees	27-3	27.12	Vested Right	27-9
27.04	Interpretation	27-4	27.13	Severance Clause	27-9
27.05	Public Notification	27-4	27.14	Conflicting Regulations	27-9
27.06	Conditions	27-6	27.15	Savings Clause	27-10
27.07	Rehearing Process	27-6	27.16	Repeal	27-10
27.08	Enforcement	27-7	27.17	Effective Date	27-10

### Section 27.00 Duties of Zoning Administrator

- A. The Zoning Administrator shall have the power to review zoning permit applications, find them complete, deny or grant Zoning Compliance Permits, forward the application to the body which this ordinance assigns the power to deny or approve, and to make inspections of buildings or premises necessary to carry out the duties of enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for the excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance. The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of the Section "Nonconformities".
- B. The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out duties of Zoning Administrator.
- C. The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of the Permit.

### Section 27.01 Zoning Permit

The following shall apply in the issuance of any Permit:

- A. **Permits For New Use of Land**  
No vacant land shall be used or an existing use of land be changed to a new or different use unless a Zoning Permit is first obtained.
- B. **Permits For New Use of Buildings**  
No building or structure or part thereof, shall be changed to or occupied by a new or different use unless a Zoning Permit is first obtained.
- C. **Permits Required**

No building or useable exterior parts thereof shall be erected, moved, expanded, or diminished in floor area unless a Zoning Permit shall have been first issued for such work. No Zoning Permit fee shall be applied to farm use buildings if not for human occupancy.

**D. Permit Validity**

Zoning Permits shall be valid for a period not to exceed twenty-four (24) months from the date of issuance.

**E. Permit Exceptions**

A zoning permit or fee is not needed under this Section for the following uses:

1. **Essential Services.** Essential Services shall be permitted as authorized and regulated by law and other Ordinances of the County, it being the intention hereof to exempt such essential services from the application of this Ordinance.
2. **Voting Place.** This Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a public election.
3. **Commercial Farms.** This Ordinance shall not be construed to interfere with commercial farm operations as defined in this ordinance and protected under the [Michigan Right To Farm Act \(1981 PA 93, as amended\)](#).
4. **Alterations.** Only exterior or interior repair and improvements which does not structurally alter the premises or change the exterior shape or form of any building in any manner, and the use of the land remains one of those listed as permitted in the respective land use district.
5. **Internal Relocations or Replacement.** Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with the relocation or replacement, unless the modification structurally alters the premises or changes the exterior shape or form in any manner.
6. **Public Utilities.** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of over ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations and similar equipment and accessories reasonably necessary for furnishing adequate service to individual customers/clients, but not including regional, long distance, interstate distribution or collection systems.

7. **Open Space.** Open Space.
8. **Personal Recreation.** Individual recreation uses such as boating, hiking, hunting, fishing, and trapping.
9. **Plowing and Planting.** Plowing and planting cash crops, row crops, orchards, or use of land as pasture or fallow when part of a permitted agricultural operation on one or more parcels of land.
10. **Timber Harvesting.** Harvesting of timber as part of a forest management activity when part of a forest management plan.
11. **Planting.** Hedges, arbors, trees, gardens, plants, shrubs.
12. **Residential Access.** Sidewalks, driveways to dwellings and duplexes.
13. **Playhouses.** Accessory structures to dwellings and duplexes which are constructed by minors, children, their parents or guardians for purposes of play by the minors and children including, but not limited to, playhouses, dollhouses, treehouses, forts, hideouts, and the like, so long as such accessory structures adhere to setback requirements of this ordinance.

Deviations from the approved Permit may result in Enforcement action as outlined in [Section 27.08](#) of this Ordinance.

## Section 27.02

*Reserved*

## Section 27.03 Fees

Fees for inspection and issuance of Permits or copies thereof required or issued under the provisions of the Ordinance shall be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established of the County Board of Commissioners.

## Section 27.04 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the public health, safety, and welfare.

## Section 27.05 Public Notification

All applications requiring a public hearing shall comply with the [Michigan Zoning Enabling Act, 2006 PA 110](#), and the other provisions of this Section with regard to public notification.

**A. Published Notice**

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the zoning staff shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Emmet County and mailed or delivered as provided in this Section.

**B. Content**

All mail, personal and newspaper notices for public hearings shall:

1. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, Special Land Use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.
2. Location: Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.
3. When and where the request will be considered: indicate the date, time and place of the public hearing(s).
4. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
5. Disabled access: Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

**C. Personal And Mailed Notice**

1. **General.** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
  - a. The owners of the 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, notice shall be given 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 the occupant is located within Emmet County. 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 **subsection E below**.

2. **Notice Considered Given.** Notice shall be considered given when personally delivered or by its deposit in the United States mail, first class, property addressed, postage paid. Zoning staff 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.

#### **D. Timing of Notice**

Unless otherwise provided in the [Michigan Zoning Enabling Act, 2006 PA 110](#), or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or Ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

#### **E. Registration To Receive Notice By Mail**

1. **General.** Any neighborhood organization, public utility company, railroad or any other person may register with the County Clerk to receive written notice of all applications for development approval pursuant to **subsection (C)(1)(c)** above or written notice of all applications for development approval within the zoning district in which they are located. The County Clerk shall be responsible for providing this notification, as established by the County Board of Commissioners.
2. **Requirements.** The requesting party must provide the County Clerk information to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this Section.

## Section 27.06 Conditions

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under its respective jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and social and economic well-being of those who will use 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.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

## Section 27.07 Rehearing Process

### A. Rehearing Performed By Planning Commission or ZBA

The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. A rehearing shall mean that the body which originally reviewed the request shall be the body which reviews the same request again. Exceptional circumstances shall mean any of the following:

- 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
- 2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
- 3. The County attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

### B. Rehearing Procedure



A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

1. Time Limit: A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date on which the applicant receives notification regarding the decision for which the rehearing is being requested.
2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

## **Section 27.08 Enforcement**

Except where otherwise stated, the provisions of this Ordinance shall be administered by the County Zoning Administrator or by such deputies of the Zoning Administrator's department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

The Zoning Administrator, or any Zoning Administrator's Deputy so designated by the Zoning Administrator, is designated as the authorized County official to issue Municipal Civil Infraction action.

Procedures for processing violations of this Ordinance are set forth in [Ordinance 97-10](#), the Municipal Civil Infraction Ordinance of Emmet County, as amended.

## **Section 27.09 Violations and Penalties**

A use of land or of a building, or a building erected, altered, or converted in violation of this Ordinance is a nuisance per se. A violation of a Consent Judgment is a violation of this Ordinance and is a nuisance per se.

Any person, partnership, corporation or association who creates or maintains a nuisance per se, as defined in the preceding paragraph, or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. The penalties for a violation of this Ordinance are stated in [Ordinance 97-10](#), and those penalties are adopted by reference. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this Section shall exempt the offender from compliance with the provisions of this Ordinance.

## **Section 27.10 Stop Work Order**

If construction or land uses are being undertaken contrary to a zoning permit, the zoning enabling act, or this ordinance, the enforcement officer or zoning administrator may post a stop work order on the property at a suitable location in order to prevent the work or activity from proceeding in violation of the ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent civil prosecution for failure to obey the order.

## **Section 27.11 Amendments**

The County may from time to time, on recommendation from the Planning Commission, or on petition and subsequent recommendation from the Planning Commission, amend, supplement or change the District boundaries or the regulations or subsequently established pursuant to the authority and procedure established in, [2006 PA 110](#), as amended.

In addition, an owner of property or his authorized agent, or other petitioner, shall not initiate action for an amendment to the Zoning Map affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Planning Commission determines that: conditions affecting the property have changed substantially, or the nature of the request has changed substantially, thereby justifying a repetition before twelve (12) months have elapsed from the date of the previous petition.

### **27.11.1 Rezoning Standards**

The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.

- A. Is the proposed rezoning consistent with the [current Master Plan](#)?
- B. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?

- C. Will there be an adverse physical impact on surrounding properties?
- D. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
- E. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
- F. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
- G. What is the impact on the ability of the County and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
- H. A zoning ordinance amendment approved by the Planning Commission shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan.

### **Section 27.12 Vested Right**

It is expressly declared that nothing in this Ordinance shall be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit.

### **Section 27.13 Severance Clause**

Sections of this Ordinance shall be considered to be severable and should any section, paragraph, or provision hereof be declared by the Courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

### **Section 27.14 Conflicting Regulations**

Except as otherwise provided by law, if any provision of this Ordinance conflicts with any other provision or with any law, the more stringent provision or law shall control.

The graphics, tables and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics.

### **Section 27.15 Savings Clause**

A prosecution that is pending on the effective date of this Ordinance and that arose from a violation of an ordinance repealed by this Ordinance, or a prosecution that started within one year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance and that was committed before the effective date of this Ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

### **Section 27.16 Repeal**

Emmet County Zoning Ordinance No. 10 adopted by the Emmet County Board of Commissioners

on August 24, 1972, as amended from time to time thereafter, is repealed in its entirety.

**Section 27.17 Effective Date**

This Ordinance shall take effect seven (7) days after its publication.

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James E. Tamlyn, Chairman  
Emmet County Board of Commissioners

State of Michigan)  
County of Emmet)

I, Juli Wallin, Clerk of the County of Emmet and of the Emmet County Board of Commissioners, do hereby certify that the foregoing Ordinance was adopted by a majority vote of the Board on October 15, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County of Emmet this \_\_\_\_ day of \_\_\_\_\_, 2015, at Petoskey, Michigan

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Juli Wallin, Clerk