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**ARTICLE 1: INTRODUCTORY PROVISIONS**

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An ordinance to establish zoning districts for Bessemer Township, Michigan; to establish regulations for those districts that are consistent with the *Bessemer Township Master Plan*; to encourage and regulate the proper use of land; to provide for the administration, enforcement, and penalties for violation; to continue a Zoning Board of Appeals, and to provide duties for the Zoning Board of Appeals and Planning Commission pursuant to the *Michigan Planning Enabling Act, Public Act 33 of 2008, as amended*, which incorporate the powers and duties of a zoning commission pursuant to the *Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended*; to repeal all inconsistent ordinances; and saving from the *1974 Bessemer Township Rural Zoning Ordinance*, as repealed, the penalties and liabilities therein imposed.

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**SECTION 1.1 BACKGROUND**

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**1.1.1 ORDINANCE TITLE**

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This *Ordinance* shall be known as the *Bessemer Township Zoning Ordinance*, and may be referred to within this document as “*Ordinance*”, or “*Zoning Ordinance*”.

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**1.1.2 LEGISLATIVE BASIS**

---

This *Ordinance* is adopted pursuant to the authority and requirements of the *Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended*, which may hereafter be referred to as simply the *Michigan Zoning Enabling Act*; and other applicable acts related to specific uses.

---

**1.1.3 ORDINANCE HISTORY**

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The previous *Bessemer Township Rural Zoning Ordinance* was adopted and became effective on April 29, 1974, and was subsequently amended. That ordinance is repealed by and replaced with this *Ordinance*.

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**1.1.4 EFFECTIVE DATE**

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This *Ordinance* shall become effective seven (7) days from the date of publication of notice of adoption.

---

**SECTION 1.2      ORDINANCE INTERPRETATION AND APPLICATION**

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**1.2.1      AUTHORITY**

---

The Zoning Administrator and the Planning Commission are responsible for interpreting the text of this *Ordinance* in accordance with the standards set forth in this Article, and applicable *Ordinance* standards and requirements, and applicable state and federal law.

**1.2.2      JURISDICTION**

---

This *Ordinance* shall apply to all buildings, structures, lands, water, and uses over which Bessemer Township has jurisdiction under the constitution and laws of the State of Michigan and of the United States.

**1.2.3      RELATIONSHIP TO OTHER REGULATIONS**

---

By the adoption of this *Ordinance*, the Township does not intend to legitimize activities prohibited by local ordinance, state, or federal law. Within the jurisdictional boundaries of Bessemer Township, no land shall be used, and no structure erected or maintained, in violation of any state or federal law or other regulation. References to other laws or regulations in the *Ordinance* are for the convenience of the reader, however, the lack of cross-reference does not exempt a land, building, structure, or use from other applicable regulations.

In the interpretation, application, and enforcement of this *Ordinance*, whenever the *Ordinance* imposes a greater restriction than is required by another existing ordinance, law, rule, regulation, or permit, the provisions of the *Ordinance* shall control.

This *Ordinance* is not intended to interfere with or annul any ordinance, rule, regulation, or permit previously adopted and not in conflict with any of the provisions of this *Ordinance*. This *Ordinance* is not intended to interfere with or annul any easements, covenants, deeds, or other agreements between parties, provided however, that where the *Ordinance* imposes a greater restriction, then the provisions of the *Ordinance* shall control in addition to all non-conflicting requirements.

In the event that the combined effect of the requirements of this *Ordinance* and any other law, rule, regulation or ordinance so severely limit the use of property subject to this *Ordinance* that no economically viable use of the property remains and a claim of taking under the Fifth Amendment to the U.S. Constitution could be made, then prior to seeking any redress in a court of law, the property owner shall file a petition with the Township Board for a Hardship Planned Unit Development under Section 10.7 of this *Ordinance*.



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Meetings of the Township Board, Planning Commission, and Zoning Board of Appeals under this *Ordinance* are subject to the *Open Meetings Act, P.A. 267 of 1976, as amended*. Documents prepared for or retained for the administration of this *Ordinance* are subject to the *Freedom of Information Act, P.A. 442 of 1976, as amended*.

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### **1.2.4 STATUTORY REFERENCES**

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All statutory citations are to statutes as amended, including codifications and repeals if a new statute is adopted with a similar scope and purpose. All references to state law in this *Ordinance* refer to the Michigan Compiled Laws (MCL), as amended.

---

### **1.2.5 APPLICABILITY**

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Every building or structure erected; any use of land, building, structure or premises; any structural alteration or relocation of an existing building or structure; and any enlargement of, or addition to, an existing use of land, building, structure, or premises occurring after the effective date of this *Ordinance* shall be subject to the provisions of this *Ordinance*.

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### **1.2.6 VESTED RIGHTS**

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Except as otherwise noted in this *Ordinance*, nothing in this *Ordinance* shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change, or modification as may be necessary for the preservation or protection of public health, safety, and welfare.

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### **1.2.7 SEVERABILITY**

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If any court of competent jurisdiction shall declare any part of this *Ordinance* to be invalid, that ruling shall not affect any other provisions of this *Ordinance* not specifically included in the ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this *Ordinance* to a particular parcel, lot, use, building, or structure, that ruling shall not affect the application of provision to any other parcel, lot, use, building, or structure not specifically included in the ruling.

If any portion of this *Ordinance* is found to be invalid or unconstitutional by a court of competent jurisdiction, Bessemer Township intends that portion be disregarded, reduced, and/or revised so as to be consistent with the purposes of this *Ordinance* to the fullest extent allowed by law.

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### **1.2.8 REGULATIONS RUN WITH THE LAND**

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All zoning approvals granted under this *Ordinance* run with the land. The right to continue a land use or activity, or construct a building or structure which is either permitted by this *Ordinance* or established as a nonconformity, shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership unless such a permit is no longer valid as determined by the Zoning Administrator. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to other terms of this *Ordinance*.

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### **1.2.9 MINIMUM REQUIREMENTS**

---

In interpreting and applying the provisions of this *Ordinance*, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

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### **1.2.10 MEANING AND INTENT**

---

All provisions, terms, phrases, and expressions contained in this *Ordinance* shall be construed according to this *Ordinance's* stated purpose and intent, and applicable state law.

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### **1.2.11 TEXT CONTROLS**

---

The following rules of construction apply to the text, tables, and illustrations of this *Ordinance*:

- 1.2.11.1** In case of any difference of meaning or implication between the text of this *Ordinance* and any heading, drawing, table, figure, caption, or illustration, the text shall control.
- 1.2.11.2** The particular shall control the general. The use of a general or similar term shall not be taken to be the same as the use of any other specific term.
- 1.2.11.3** The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- 1.2.11.4** Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- 1.2.11.5** A "building" or "structure" includes any part thereof.

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- 1.2.11.6** The word “dwelling” includes “residence”.
- 1.2.11.7** The word “lot” includes the word “plot”, “tract”, or “parcel”.
- 1.2.11.8** The phrase "used for" or “occupied” includes "arranged for," "designed for," "intended for," "maintained for," or “occupied for.”
- 1.2.11.9** The word "person" includes an individual, a corporation, a limited liability corporation, a partnership, a trust, a firm, an incorporated association, or any other similar entity.
- 1.2.11.10** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
- A) "And" indicates that all the connected items, conditions, provisions or events shall apply.
  - B) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - C) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- 1.2.11.11** Words and phrases not otherwise defined in this *Ordinance* shall have the meaning customarily assigned to them.
- 1.2.11.12** The words “this *Ordinance*” means the text of this *Ordinance* as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended. The use of the words “Township”, “Township Board”, and “Planning Commission” all refer to the appropriate entities of Bessemer Township, Michigan.

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### **1.2.12 INTERPRETATION OF BOUNDARIES**

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Where a question arises with respect to the boundary of any district, the following shall govern:

- 1.2.12.1** Boundaries indicated as approximately following the center lines of streets or alleys shall be construed to follow the center lines.
- 1.2.12.2** Where boundaries follow the shore line of a stream, lake, or other body of water, the boundaries shall follow such shoreline, and in the event of change in the shoreline, the boundaries shall be the actual shoreline; where boundaries follow the centerline of streams, rivers, canals or other bodies of water, such shall follow the centerlines thereof.

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- 1.2.12.3** A boundary indicated as approximately following a recorded lot line or the line bounding a parcel (such as a section or quarter-section line) shall be construed as following the lot line.
- 1.2.12.4** A boundary indicated as following the municipal boundary line shall be construed as following the boundary line.
- 1.2.12.5** A boundary indicated as following a railroad line shall be construed to be midway between the main tracks or in the center of the right-of-way if the tracks have been removed.
- 1.2.12.6** Boundaries indicated as parallel to, or extensions of features indicated in subsections 1-5 above, shall be so construed. A distance not specifically indicated in the Official Zoning Map shall be determined by the scale of the map to the nearest foot.
- 1.2.12.7** Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Appeals shall interpret the district boundaries.
- 1.2.12.8** Should the above rules not fully explain a question of boundaries, the Zoning Board of Appeals shall have the authority to make an interpretation on appeal.

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### **1.2.13 OFFICIAL ZONING MAP PROVISIONS**

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- 1.2.13.1** The boundaries of the respective zoning districts are defined and established as depicted on the official map entitled "Bessemer Township Zoning Map," which is an integral part of this *Ordinance*, and which, with the accompanying explanatory notes, shall be published as part of and incorporated by reference to the *Bessemer Township Zoning Ordinance*.
- 1.2.13.2** The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the seal of the Township under the following words: "This is to certify that this is the Official Zoning Map of the Zoning Ordinance of Bessemer Township, Michigan", together with the date of adoption of this *Ordinance*.
- 1.2.13.3** One (1) copy of the Official Zoning Map shall be maintained and kept up-to-date in the office of the Zoning Administrator of Bessemer Township, along with a chronological file of the official actions taken.
- 1.2.13.4** If, in accordance with the provisions of this *Ordinance*, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the Township Board. No amendment to this *Ordinance* which involves matters portrayed on the Official Zoning Map shall become effective until such change and entry has been made on the map. Amendments shall not be considered final, and building permits shall not be issued, until the appropriate amendments have been made on the

## *Bessemer Township Zoning Ordinance*

Official Zoning Map. Each amendment shall be accompanied by a reference number on the map, which shall refer to the official action of the Township Board.

- 1.2.13.5** Any unauthorized change on or defacing of the Official Zoning Map by any person or persons shall be considered a violation of this *Ordinance*.
- 1.2.13.6** Regardless of the existence of copies of the Official Zoning Map which may be made or published, the Official Zoning Map retained in the office of the Zoning Administrator shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Township.
- 1.2.13.7** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Township Board may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, bearing the seal of the Township under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of Bessemer Township, Michigan" together with the date of adoption of this resolution. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts that remain shall be preserved together with all available records pertaining to its adoption or amendment.

## **ARTICLE 2: ZONING INTENT AND PURPOSES**

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### **SECTION 2.1 PURPOSE**

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Bessemer Township declares, by reference to the *Michigan Zoning Enabling Act* declarations (*Act 110 of 2006, as amended*), that the purposes of this *Ordinance* are to:

- Promote the public health, safety, and general welfare;
- Meet the needs of the state’s residents for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service and other uses of land;
- Ensure that uses of land are situated in appropriate locations and relationships;
- Limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities;
- Facilitate the adequate and efficient provision of transportation systems, sewage disposal, energy, solid waste disposal, drainage, public water supply, education, recreation and other public service and facility requirements.

This *Ordinance* is also intended to:

- Advance the interests of both conservation and development while responding to existing conditions, regional context, natural features, infrastructure considerations, and existing buildings;
- Preserve traditional neighborhoods, historic resources, and public access to the natural environment;
- Conserve energy and better serve diverse population needs through land use patterns that encourage alternative transportation;
- Increase the utilization of “green infrastructure” such as trees and other vegetation to improve community aesthetics, buffer uses, improve stormwater management, and assist in mitigating adverse winter climate conditions;
- To make possible more mixed-use development opportunities in the Township;
- To re-orient the Township’s commercial corridors with mixed-use, walkable activity clusters that facilitate non-motorized and public transportation options;
- Encourage infill and redevelopment of existing properties where public infrastructure and services are already available;
- Distribute affordable housing and diverse housing types throughout the Township to accommodate a variety of needs;
- Accommodate vehicles while respecting pedestrians and spatial forms of public space;
- Support a transportation framework that provides alternatives to automobile use;
- Locate civic buildings and gathering places to reinforce community identity and strengthen public participation;
- Allow inhabitants to experience the geography and climate most efficiently with energy efficient design;
- Protect critical water resources from adverse impacts through judicious land use regulation in proximity to water resources, and through appropriate buffering and performance standards.

**SECTION 2.2 CONSISTENCY WITH THE BESSEMER TOWNSHIP MASTER PLAN**

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The districts and other provisions of this *Ordinance* are also based upon the Future Land Use Map and policies of the *Bessemer Township 2011 Master Plan*, which is consistent with the provisions of the *Michigan Planning Enabling Act, Public Act 33 of 2008, as amended*, with the intent to implement the Township plan by regulating the use of land and structures to (in summary):

- Guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical;
- Promote efficiency in the expenditure of funds for public improvements and services while preventing the overburdening of public facilities;
- Support the desired character of the community;
- In accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare;
- Enhance and protect property values;
- Prevent nuisances and preserve quality of life;
- Provide adequate light and air;
- Protect air and water quality;
- Support a system of transportation to provide for safe and efficient movement of people and goods by motor vehicles, bicycles, pedestrians, and other legal users;
- Encourage the use of lands and resources in accordance with their character and adaptability;
- Conserve natural resources and energy and protect the quality of the natural environment;
- Reduce hazards to life and property due to fire, flooding, erosion, pollution, or excessive dust, fumes, smoke, noise, vibration, noxious odors, snow accumulation or other hazards;
- Limit the improper use of land given the character of each Zoning District and its peculiar suitability for particular uses.

The Zoning Ordinance is intended to help implement the following broad goals of the *Bessemer Township 2011 Master Plan*, summarized as follows:

- Goal #1: Smart Growth – Ensure that new development follows Smart Growth tenets and policies, such as prioritizing compact development and channeling new development to make the best use of existing infrastructure, enhance efficiency in public service provision and infrastructure maintenance, and help preserve natural resource lands.
- Goal #2: Sustainable Development – Promote development that is consistent with a future-oriented vision, and that upholds an ethic of stewardship that encourages individuals and organizations to take full responsibility for the economic, environmental, and social consequences of their actions.
- Goal #3: Economic Sustainability – To achieve a sustainable economic development program that balances social and environmental considerations along with economic considerations in the production and distribution of goods and services, and implements

## *Bessemer Township Zoning Ordinance*

strategies that address current needs along with the needs of future generations. To collaborate to enhance fiscal efficiency, stretch limited economic resources, and increase organizational capacity.

- Goal #6: Green Economy – Enhance the Township’s ability to participate in the Green Economy to create new economic opportunity.
- Goal #7: Community Resilience – Build community resilience by enhancing local self-sufficiency and creating a collaborative community framework to address anticipated economic, social, and environmental change.
- Goal #8: Cultural & Historic Resource Enhancement – Preserve important cultural and historic resources for the enjoyment and education of future generations. These resources provide a link to the past, enhance a sense of place, build community pride, and provide potential for increased tourism and economic vitality.
- Goal #9: Public Recreation & Scenic Resources Enhancement – Preserve and enhance public access and enjoyment of unique natural amenities and create a community that supports active living and recreation environments.
- Goal #10: Social Environment and Quality-of-Life Enhancement – Pursue strategies that sustain Bessemer Township as a safe and healthy place to live, support a sense of a diverse yet cohesive community, preserve community traditions, and provide opportunities for all residents to be engaged in the social sphere and help accomplish community goals.
- Goal #11: Public Services Resource Enhancement – Provide for efficient public service provision and facility management to most effectively protect and utilize public investment.
- Goal #12: Public Facilities Resource Enhancement – Make sure that all public facilities set a good example for sustainable design and operation and provide an essential public service in the most efficient manner.
- Goal #13: Transportation Enhancement – Continue to grow and improve the transportation infrastructure that is key to economic growth in the region, including roads, bridges, non-motorized facilities, air service, and rail lines.
- Goal #14: Utility Infrastructure Enhancement – Continue to grow and improve the physical infrastructure that is key to economic growth in the region, including utility service, power generation, and transmission infrastructure.



## **ARTICLE 3: ORDINANCE AND DISTRICT OVERVIEW**

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This section describes the *Ordinance's* approach, and provides a guide for navigating and finding information in the *Ordinance*. Bessemer Township is comprised of a combination of residential neighborhoods, business centers, mixed-use areas, and natural space components. These areas generally are organized around common physical and functional characteristics such as relationships of buildings to streets, street layout, building types, prominent uses, circulation patterns, and development patterns. This *Ordinance* provides basic standards to ensure the continued compatibility of development in these areas.

### **SECTION 3.1 HOW TO USE THIS ORDINANCE**

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Anyone seeking to erect, alter, or relocate any building or structure, or commence any new use of land, building, or structure, should first consult the Zoning Administrator to review the Official Zoning Map and determine which district(s) applies to their property. A basic understanding of district dimensional regulations can be found in the summary table in *Article 3: Ordinance and District Overview*. A basic understanding of permitted uses can be found in the summary table in *Article 4: Use Overview and Matrix*. Before finalizing a development plan, an applicant should consult *Article 2: Zoning Intent and Purposes*, and the Site Plan Review section of *Article 14* to determine consistency with community and *Ordinance* goals.

All proposals must satisfy the provisions of *Article 5: General Provisions*, which addresses regulations applying to all structures; lots; parking and loading; landscaping, screening, and fencing; signs; essential services, communications, utility, and public infrastructure; access; and miscellaneous provisions. *Article 6* contains the regulations applying to each base zoning district, and *Article 7* contains the regulations applying to the overlay district(s). Supplemental conditional and special use provisions are contained in *Article 9*. In the case of a Planned Unit Development (PUD), *Article 10* applies.

If a nonconforming lot, building, structure, or use is involved, *Article 13* should be consulted. *Article 14: Zoning Administration* explains the appropriate review and approval process. For reference, measurement standards and definitions are located in *Article 15*.

### **SECTION 3.2 ZONING DISTRICT OVERVIEW**

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The purpose of this Section is to provide an introduction to the zoning districts within Bessemer Township, in relation to the Future Land Use Categories from the *Bessemer Township 2011 Master Plan*, and in relation to the zoning districts of the former *Bessemer Township Rural Zoning Ordinance* (see Table 1-1). This summary is intended only as a guide to understanding the transition between the current and former zoning ordinance, and the connection with the Township master plan. More detailed information for each district is contained in Article 6: Schedule of Regulations for Base Zoning Districts, and Article 7: Schedule of Regulations for Overlay Zoning Districts.

## Bessemer Township Zoning Ordinance

### 3.2.1 ESTABLISHMENT OF ZONING DISTRICTS

The *Michigan Zoning Enabling Act* establishes the authority of a local government to establish one or more districts within its zoning jurisdiction which regulate the use of land and structures for the various purposes contained within the Act. This includes the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and establishment of districts in areas subject to damage from flooding or beach erosion. The local unit of government may adopt regulations designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles. The zoning districts of the *Bessemer Township Zoning Ordinance* were designed to achieve the vision, goals, and objectives of the *Bessemer Township 2011 Master Plan*.

**Table 3-1, Comparison of Future Land Use, Current Zoning Districts, and Former Zoning Districts**

Future Land Use Category	Future Zoning Category	Current Zoning Category
Forest Reserve	Forest Reserve (FR)	Recreational, Agriculture, Forestry (RAF)
Conservation/Recreation	Conservation/Recreation (CR)	Recreational, Agriculture, Forestry (RAF); Residential, Restricted Commercial (R-1);
Core Mixed Use	Core Mixed Use (M-1)	Residential, Restricted Commercial (R-1)
Corridor Mixed Use	Corridor Mixed Use (M-2)	Residential, Restricted Commercial (R-1); Recreation, Residential, Agricultural, Commercial (R-2)
Resort Mixed Use	Resort Mixed Use (M-3)	Recreation, Residential, Agricultural, Commercial (R-2)
Industrial	Industrial (I)	Recreational, Agriculture, Forestry (RAF)
Mixed Density Residential	Mixed Density Residential (R-1)	Residential, Restricted Commercial (R-1); Recreational, Agriculture, Forestry (RAF)
Medium Density Residential	Medium Density Residential (R-2)	Residential, Restricted Commercial (R-1); Recreation, Residential, Agricultural, Commercial (R-2); Industrial Park (I PD)
Rural Residential	Primary Rural Residential (R-3)	Recreation, Residential, Agricultural, Commercial (R-2); Recreational, Agriculture, Forestry (RAF)
Rural Conservation Development	Secondary Rural Residential (R-4)	Recreation, Residential, Agricultural, Commercial (R-2); Recreational, Agriculture, Forestry (RAF)

## *Bessemer Township Zoning Ordinance*

### **3.2.1.1 BASE ZONING DISTRICTS**

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To achieve the purposes of this *Ordinance* and the Bessemer Township Master Plan, the Township hereby establishes the following base zoning districts:

R-1—Mixed-Density Residential  
R-2—Medium Density Residential  
R-3—Primary Rural Residential  
R-4—Secondary Rural Residential  
I—Industrial

M-1—Core Mixed Use  
M-2—Corridor Mixed Use  
M-3—Resort Mixed-Use  
FR—Forest Reserve  
CR—Conservation & Recreation

### **3.2.1.2 OVERLAY ZONING DISTRICTS**

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The provisions of an overlay district apply in addition to the provisions of the underlying base zoning district. To achieve the purposes of this *Ordinance* and the *Bessemer Township 2011 Master Plan*, the Township hereby establishes the following overlay zoning districts:

SO—Shoreline Protection Overlay Zone

HO—US 2 Highway Overlay Zone

### **3.2.2 NEWLY ANNEXED TERRITORY**

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Whenever any lands are annexed to the Township, one of the following conditions will apply; 1) Land that is zoned previous to annexation shall be lawfully zoned as being in whichever district of this *Ordinance* most closely conforms with the zoning that existed prior to annexation, such district to be recommended by the Planning Commission and lawfully adopted by the Township Board within ninety (90) days of annexation. 2) Land not previously zoned shall be automatically zoned Conservation and Recreation (CR) district until a zoning designation and appropriate map for said lands are recommended by the Planning Commission and lawfully adopted by the Township Board within ninety (90) days of annexation.

### **3.2.3 COMPREHENSIVE SCHEDULE OF DISTRICT REGULATIONS**

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Table 3-2 summarizes the general dimensional regulations for all zoning districts for easy reference. More detailed information is in Article 6: Schedule of Regulations—Base Zoning Districts, and Article 7: Schedule of Regulations—Overlay Zoning Districts.

## Bessemer Township Zoning Ordinance

**Table 3-2, Summary Schedule of District Regulations, page 1**

Zoning District	Use	Min. Lot Size Square Ft.	Min. Lot Width	Min Front Setback	Max Front Setback	Side Yard	Rear Yard	Min Floor Area Per Unit Sq Ft	Max Lot Coverage	Max Impervious Surface	Max Height
Mixed-Density Residential (R-1)	SF Residential / Duplex	6,000/10,000*	50'/75'*	15'	25'	5'	10'	900/700	50%	65%	2.5 stories/35'
	Multi-Residential (3+)	12,000*	100'*	20'	25'	8'	10'	500	60%	75%	3 stories/42'
	Non-Residential or Mixed-Use	5,000*	75'*	15'	25'	5'	10'	N/A	60%	75%	2 stories/35'
	Without public sewer/water	25,000	150'	All others as above per use							
Medium Density Residential (R-2)	SF Residential / Duplex	5,000/8,000*	50'/75'*	10'	20'	5'	20'	900/600	40%	55%	2.5 stories/35'
	Multi-Residential (3+)	10,000*	75'*	15'	20'	8'	25'	500	50%	65%	2 stories/35'
	Non-Residential or Mixed-Use	3,000*	75'*	10'	20'	5'	20'	N/A	60%	75%	2 stories/35'
	Without public sewer/water	25,000	150'	All others as above per use							
Primary Rural Residential (R-3)	Single-lot devel avg 1 unit per 10 acres	5 acres	100'	20'	N/A	10'	25'	800	N/A	N/A	2.5 stories/35'
	Conservation devel/avg 1 unit per 2 acres with 24 of 40 acres open	1 acre	100'	15'	N/A	8'	25'	800	N/A	N/A	2.5 stories/35'
Secondary Rural Residential (R-4)	Single-lot devel avg 1 unit per 20 acres	10 acres	100'	20'	N/A	10'	25'	800	N/A	N/A	2.5 stories/35'
	Conservation devel/avg 1 unit per 2.67 acres with 24 of 40 acres open	1 acre	100'	15'	N/A	8'	25'	800	N/A	N/A	2.5 stories/35'

\*Assumes the provision of public sewer/water systems with development. \*\*Minimum side yard not applicable for attached structures.

*Bessemer Township Zoning Ordinance*

**Table 3-2, Summary Schedule of District Regulations, page 2**

Zoning District	Use	Min. Lot Size Square Ft.	Min. Lot Width	Min Front Setback	Max Front Setback	Side Yard	Rear Yard	Min Floor Area Per Unit Sq Ft	Max Lot Coverage	Max Impervious Surface	Max Height
Core Mixed-Use (M-1)	SF Residential, Duplex	3,000/4,000	50'/75'	10'	20'	5'	20'	800'/600'	60%	75%	2.5 stories/35'
	Multi-Residential (3+)	3,000	30'	15'	20'	8'	25'	500'	70%	85%	3 stories/42'
	Non-Residential or Mixed-Use	3,000	30'	Zero	10'	5'***	10'	N/A	90%	100%	3 stories/42'
Corridor Mixed-Use (M-2)	SF Residential / Duplex	43,560 (1 acre)	300' direct US-2 access / 100' indirect or shared access	50'	100'	10'	30'	1000'/800'	40%	55%	2 stories/35'
	Multi-Residential (3+)							600'	50%	65%	2 stories/35'
	Non-Residential or Mixed-Use							N.A.	70%	85%	2 stories/35'
Resort Mixed-Use (M-3)	SF Residential / Duplex	3,000/4,000*	50'/75'*	15'	25'	8'	25'	700/600	50%	65%	2.5 stories/35'
	Multi-Residential (3+)	5,000*	75'*	20'	25'	8'	30'	500	60%	75%	3 stories/42'
	Non-Residential or Mixed-Use	3,000*	30'*	10'	25'	8'***	15'	N/A	80%	95%	2 stories/35'
	Without public sewer/water	25,000	150'	All others as above per use							

\*Assumes the provision of public sewer/water systems with development. \*\*\*Minimum side yard not applicable for attached structures.

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**Table 3-2, Summary Schedule of District Regulations, page 3**

Zoning District	Use	Min. Lot Size Square Ft.	Min. Lot Width	Min Front Setback	Max Front Setback	Side Yard	Rear Yard	Min Floor Area Per Unit Sq Ft	Max Lot Coverage	Max Impervious Surface	Max Height
Industrial	(I)	43,560 (1 acre)	150'	20'	65'	20'	30'	N/A	75%	85%	42'
Forest Reserve	(FR)	10 acres	100'	25'	N/A	15'	25'	N/A	N/A	N/A	2 stories/35'
Conservation & Recreation	(CR)	10 acres	100'	25'	N/A	15'	25'	N/A	N/A	N/A	2 stories/35'

\*Assumes the provision of public sewer/water systems with development. \*\*Minimum side yard not applicable for attached structures.

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## **ARTICLE 4: USE OVERVIEW AND MATRIX**

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The purpose of this Article is to introduce the different types of land use review and approval categories and to give a summary of the permitted uses for all districts.

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### **SECTION 4.1 UNDERSTANDING PERMITTED USES**

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#### **4.1.1 CATEGORIES OF PERMITTED USES**

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##### **4.1.1.1 USE PERMITTED BY RIGHT (P)**

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A use permitted in a district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this *Ordinance*.

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##### **4.1.1.2 CONDITIONAL LAND USE (C)**

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Conditional Land Uses are not necessarily incompatible with uses permitted by right in a zoning district, but, because of special characteristics, these uses require additional conditions to ensure compatibility before administrative approval. Before establishing, expanding, or amending a Conditional Land Use, with the exception of terminating a Conditional Land Use, the applicant shall obtain a Conditional Land Use Permit from the Zoning Administrator pursuant to permitting requirements using an application provided by the Zoning Administrator. Conditional Land Uses are permitted by right in a particular zoning district provided that the use complies with general review standards in Section 14.5.6 and specific use standards in Article 9. The Zoning Administrator may refer the application to the Planning Commission for comment before rendering a decision. If the application is denied, the Zoning Administrator shall identify in writing the reasons for that denial. In such a case, an aggrieved Applicant may appeal the Zoning Administrator's determination to the Zoning Board of Appeals.

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##### **4.1.1.3 SPECIAL LAND USE (S)**

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Special Land Uses are not essentially incompatible with uses permitted in a Zoning District, but possess characteristics which require Planning Commission review and discretion to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Before establishing, expanding, or amending a Special Land Use, with the exception of terminating a Special Land Use, the applicant shall obtain a Special Land Use Permit from the Zoning Administrator pursuant to permitting requirements using an application provided by the Zoning Administrator. Special Land Uses are permitted if approved in a particular zoning district provided that the use complies with discretionary review standards in Section 14.5.6 and specific use standards in Article 9. If the

## *Bessemer Township Zoning Ordinance*

application is denied, the Planning Commission and Zoning Administrator shall identify in writing the reasons for that denial. In such a case, an aggrieved Applicant may appeal the Zoning Administrator's determination to the Zoning Board of Appeals.

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### **4.1.2 GENERAL USE PROVISIONS**

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- 4.1.2.1** Only uses permitted under the provisions of this *Ordinance* may be established on a parcel. All other uses may be permitted only if this *Ordinance* has been amended to permit them, unless authorized by means of approval of a Planned Unit Development pursuant to Article 10.
- 4.1.2.2** A change in use group under the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, such as from "storage" or "business" to "mercantile" or "assembly" is a change of use requiring review and approval under this *Ordinance*.
- 4.1.2.3** The principal and accessory uses permitted by zone are listed in Tables 4-1 and 4-2. Uses Permitted by Right are listed as "P". Uses listed as "C" are permitted by right (Conditional Land Use Permit) if the nondiscretionary conditions associated with that use, as set forth in Article 9, are met. Special Land Uses, listed as "S", are permitted by Special Land Use Permit if the required discretionary and nondiscretionary standards associated with that use, as set forth in Article 9 and Article 14, are met, as reviewed and approved by the Planning Commission. Standards for accessory uses are in Section 5.3 and Article 9.
- 4.1.2.4** Any of the uses permitted in a district may be combined in a Planned Unit Development per the requirements of Article 10.
- 4.1.2.5** Where a proposed use of land or use of building is not contemplated or specified by this *Ordinance*, or where the Zoning Administrator has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this *Ordinance*, the Zoning Administrator shall request the Planning Commission to consider the proposed use, and if deemed appropriate, to then initiate the necessary amendment to this *Ordinance* to provide for the requested use in appropriate districts and according to standards recommended by the Planning Commission. Following adoption of the amendment by the Township Board, a permit application may be made to the Zoning Administrator to establish that use on a parcel in a district in which that use is permitted.
- 4.1.2.6** No part of a setback area, or other open space, or off-street parking or loading space required in connection with any use of land, building or structure, for the purpose of complying with this *Ordinance*, shall be included as part of a setback area, open space, or off-street parking lot or loading space similarly required for any other use, building or structure, except as provided for joint use of parking in Section 5.5.4.
- 4.1.2.7** No use of land, buildings, structures, or portions thereof of a size or character greater than the threshold as provided in Section 14.5 of this *Ordinance*, shall be erected or utilized without the prior approval of the site plan in accordance with Article 14 of this *Ordinance*.



## *Bessemer Township Zoning Ordinance*

- 4.1.2.8** Whenever any street, alley, or other public way within Bessemer Township shall be vacated by official action, such street, alley, or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.
- 4.1.2.9** Every use must comply with all applicable regulations in this *Ordinance*. All relevant sections must be consulted to understand the scope of regulations that apply in a particular case. The most common applicable regulations in addition to the use regulations of this Article and Articles 6: Schedule of Regulations—Base Zoning Districts, and Article 7: Schedule of Regulations—Overlay Zoning Districts, include those in Article 5: General Provisions (such as parking, loading, landscaping, buffering, fencing, signs); and Article 9: Conditional and Special Uses.

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### **4.1.3 INTERPRETATIONS OF USE CLASSES**

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- 4.1.3.1** Use classes arrange land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.
- 4.1.3.2** When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, delicatessen, and bakery, for example, would be classified in the Food and Drink Service Establishments category, because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that category. A mail order facility may simply be a call center or it may have warehouse or storage facilities on site. The Zoning Administrator shall classify the facility into the proper zoning district based on the characteristics of the use.
- 4.1.3.3** Accessory uses are permitted in conjunction with a principal use, subject to any special regulations applicable to it and to the regulations applicable to the principal use if there are no special regulations. See also Article 5 and Article 9 for additional accessory use regulations.
- 4.1.3.4** Table 4-1, Section 4.2, lists common examples of uses included in the respective use category. The names of these sample uses are generic—in interpreting use descriptions, the actual activity on the site will be matched to the use description. Uses categories are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse" but that sells mostly to consumers, is included in the General Retail Establishments category rather than the Wholesale Trade Establishments category. This is because the actual activity on the site matches the description of the General Retail Establishments category.
- 4.1.3.5** An uncategorized use may be a Special Land Use for which particular standards are provided in Article 9.

## *Bessemer Township Zoning Ordinance*

- 4.1.3.6** The Zoning Administrator shall keep a log of all use interpretations indicating the use, the options considered, and the selection made, along with the reasons for that decision.

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### **4.1.4 CRITERIA FOR INTERPRETATION**

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The following considerations are examples of the factors that may be evaluated by the Zoning Administrator in making similar use interpretations:

- 4.1.4.1** Actual or projected characteristics of the proposed activity in relationship to similar use categories;
- 4.1.4.2** The relative amount of site area or floor space and equipment devoted to the activity;
- 4.1.4.3** Relative amounts of sales from each activity;
- 4.1.4.4** The customer type for each activity (retail or wholesale);
- 4.1.4.5** The relative number of employees in each activity;
- 4.1.4.6** Hours of operation;
- 4.1.4.7** Building and site arrangement;
- 4.1.4.8** Vehicles used with the activity;
- 4.1.4.9** The relative number of vehicle trips generated by the use;
- 4.1.4.10** How the use advertises itself;
- 4.1.4.11** Any other relevant considerations.

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## **SECTION 4.2 SUMMARY USE MATRIX**

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Table 4-1 presents land use classes, definitions, and examples of principal uses permitted per District. Table 4-2 presents use regulations for accessory uses.

# Bessemer Township Zoning Ordinance

**Table 4-1 Use matrix, Page 1**

Use Matrix-Page 1											
Agricultural Uses											
Agricultural Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Establishments primarily engaged in supplying soil preparation services, crop services, livestock services, horticultural services, farm labor, and farm management services and sales.</b>											
Livestock auction yards; livestock transport facilities; slaughterhouses; grain and seed elevators and sales; and cold storage of agricultural products, farm implements sales or repair.	VI	--	--	--	--	--	C	--	P	--	--
Farm feed and small equipment sales; fertilizer, herbicide, and pesticide sales (limited outdoor storage).	V	--	--	C	--	--	C	--	P	--	--
Animal Services: Completely indoor facilities. Animal hospitals or shelters, boarding kennels, veterinary services.	IV	--	--	C	--	--	C	C	--	--	--
Animal Services: with unenclosed, outdoor confinement. Animal hospitals or shelters, boarding kennels, veterinary services.	V	--	--	S	S	--	C	S	--	--	--
Commercial Agriculture or Horticulture	LUI	Districts									
Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR	
<b>The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as "farm" is defined in the Michigan Right to Farm Act, Public Act 93 of 1981; as amended.</b>											
Commercial production of biomass crops; forages and sod crops; grains; feed crops; field crops; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees, and other similar uses; and the usual farm buildings associated with such uses.	I	--	--	C	C	--	C	C	--	C	P
Dairy and dairy products; poultry and poultry products; livestock including breeding and grazing of cattle, swine, captive deer, equine, and similar animals; horse riding stables; nurseries; greenhouses; apiaries; annelid farms; mushrooms; aquaculture; fish hatcheries, similar agricultural enterprises; and the usual farm buildings associated with such uses.	II	--	--	C	C	--	S	S	--	S	P
Composting (large scale) and other industrial scale or intensive agriculture activity.	V	--	--	C	C	--	--	--	--	C	P
Small Scale Food Production and Urban Agriculture	LUI	Districts									
Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR	
<b>The production of fruits, vegetables, livestock, flowers and other natural food and non-food materials within or near the limits of a city, especially on vacant lots, in open spaces such as parks, and in enclosed, indoor facilities such as greenhouses or aquaculture systems.</b>											
Accessory private yard vegetable and flower gardens and orchards within any required	I	C	C	P	P	--	C	C	--	P	P
Accessory greenhouses or aquaculture systems.	II	P	P	P	P	--	--	P	P	P	P
Accessory private poultry production.	II	C	C	P	P	--	C	--	--	C	P
Community Gardens and Urban Gardens as a Principal Use	I	C	C	P	P	--	--	C	--	P	P
Farmer's Markets	III	C	--	C	C	C	C	C	--	C	C

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Table 4-1 Use matrix, Page 2

Use Matrix-pg 2											
Commercial & Commercial Services Uses											
Business Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Establishments primarily engaged in rendering services to business establishments on a fee or contract basis.</b>											
Advertising and mailing; stenographic services; temporary personnel services; duplicating and copying services; building maintenance; employment services; commercial food catering management and consulting services; protective services; equipment rental and leasing; commercial research; photo finishing; data processing; telemarketing sales; vending machine service; and office supply services.	IV	--	--	--	--	P	P	P	P	--	--
Convenience Retail Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>A retail establishment offering for sale prepackaged food products, milk, bread, donuts, sandwiches, beverages, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption. These are usually short trip, high volume uses not more than 3,500 square feet in size. A convenience retail establishment can share a building with another use, such as an automobile service station. Drive-through establishments are not convenience retail establishments.</b>											
Party stores; drug stores; grocery stores; bakeries; delicatessens; magazine and newspaper stands.	V	--	--	--	--	C	P	C	--	--	--
Drive-Through Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to conveniently make deposits, view specified objects, receive services, or obtain goods without disembarking from their motor vehicles, and then proceeding elsewhere. Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).</b>											
Drive-through fast food restaurants, banks, drug stores, photo shops, grocery or party stores, and related businesses. A drive-through window, or motor vehicle oriented pick-up window, even if accessory to the principal use, shall subject the use to all the standards applicable to uses in which the drive-through aspect is a principal feature of the use.	V	--	--	--	--	C	P	C	--	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											

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Table 4-1 Use matrix, Page 3

Use Matrix-pg 3											
Commercial & Commercial Services Uses, continued											
Food and Drink Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>An establishment where food and drink are prepared, served and consumed primarily on the premises.</b>											
Restaurants (eat-in or take-out, but not drive-through); bakeries; cafes; bars and taverns; nightclubs; cabarets; brewpubs (allowed only in conjunction with and as part of a restaurant); coffee shops; delicatessens; diners; soup kitchens; and related uses similar to and compatible with the above uses.	V	S	--	S	--	P	P	P	--	--	--
Forest Management	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services. Usually done in accordance with a forest management plan establishing best conservation and management practices.</b>											
Tree planting, harvesting, sawing, chipping, temporary storage, and transport of forest products, as well as forest research facilities are permitted uses. The processing of wood products is an industrial activity (see Manufacturing Establishments).	II	--	--	--	P	--	--	--	C	C	P
Sawmills, whether temporary or permanent.	VI	--	--	S	S	--	S	--	C	--	P
General Retail Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>The principal activity of general retail establishments is the purchase and resale, leasing or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering services incidental to the sale of such goods. There may be processing or manufacturing of products incidental or subordinate to the selling activities (such as a bakery or delicatessen at a grocery store). A common accessory use is repair of products sold on the premises.</b>											
Large Scale Retail Development, building material sales, warehouse store.	V	--	--	--	--	--	S	--	--	--	--
Stores selling, leasing, or renting new or used consumer, home and business goods including, but not limited to, pharmaceuticals, food, electronic, office, building, personal care, and household goods.	IV	C	--	--	--	C	C	C	--	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											

Bessemer Township Zoning Ordinance

Table 4-1 Use matrix, Page 4

Use Matrix-pg 4											
Commercial & Commercial Services Uses, continued											
Indoor Entertainment Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<p>Business establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments. Restaurants and cafes without entertainment are not indoor entertainment establishments, they are food service establishments. Hotels, motels and other temporary lodging are not indoor entertainment establishments if there is no entertainment offered, they are lodging/accommodation establishments.</p>											
Athletic/fitness/exercise establishments; bowling alleys; ice or roller blade rinks; indoor soccer fields and racquet courts; amusement centers and game arcades; bingo parlors; pool or billiard halls; dance halls; theaters; membership clubs; saunas, hot tubs and similar establishments; indoor archery and shooting ranges; swimming pools/clubs; hotels, motels and other temporary lodging with an average length of stay of less than 30 days.	V	C	--	C	--	C	P	C	C	--	--
Outdoor Commercial Recreation & Entertainment Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<p>Outdoor recreation and entertainment uses provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities largely in structures in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, office for management functions, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses. Additional regulations apply to outdoor entertainment establishments that serve alcohol.</p>											
Fairgrounds; golf driving ranges; golf courses and country clubs; ski slope and ski resorts; arboretum.	III	S	S	C	C	--	C	C	--	S	--
Public swimming pool; swimming clubs, tennis clubs/courts; batting cages; skateboard parks; and outdoor ice rinks.	IV	S	S	C	--	S	C	C	--	S	--
Amusement and water parks; theme parks; miniature golf facilities; amphitheaters; drive-in theater; go-cart tracks.	V	--	--	S	--	--	S	C	--	S	--
Outdoor archery, rifle, skeet, trap shooting ranges; zoos.	VI	--	--	S	S	--	S	S	--	C	C
Animal racing; automobile and motorcycle race tracks.	VI	--	--	--	S	--	--	--	--	--	--
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>											

Bessemer Township Zoning Ordinance

Table 4-1 Use matrix, Page 5

Use Matrix-pg 5											
Commercial & Commercial Services Uses, continued											
Lodging/Accommodations	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>A facility offering transient lodging accommodations to the general public and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities as accessory uses.</b>											
Hotels, motels, auto courts, residence inns, tourist homes and other resident lodging facilities.	V	--	--	--	--	--	P	P	--	--	--
Bed and Breakfast Establishments	III	C	C	C	C	C	C	C	--	--	C
Organized camps, and campgrounds for tents or recreational vehicles.	IV	--	--	C	C	--	C	C	--	S	S
Resorts	IV	--	--	PUD	PUD	--	PUD	PUD	--	PUD	PUD
Medical Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Health care facilities providing medical, dental, surgical and preventive health services to patients as well as establishments providing support to health professionals and patients such as medical laboratories for research and testing, medical suppliers and service establishments.</b>											
Small: Medical or dental clinics; doctor or dentist offices; medical or dental labs; blood collection facilities; x-ray and related scanning facilities; emergency medical care facilities; sales of medical supplies and prosthetics; drug stores; pharmacies; therapeutic massage by licensed masseuses, physical therapists, rehabilitation therapists, nurses, or physicians.	IV	C	--	C	--	P	P	C	--	--	--
Large: Hospitals.	V	--	--	S	--	S	S	--	--	--	--
Office Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.</b>											
Financial institutions: lenders, brokerage houses, banks; insurance offices; real estate offices; offices for attorneys, accountants, architects, engineers and similar professionals; government offices; public utility offices; telemarketing sales offices and other similar compatible uses.	IV	C	--	--	--	C	P	C	--	--	--
Accessory Home Occupations	II	C	C	C	C	C	P	C	--	C	C
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											

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Table 4-1 Use matrix, Page 6

Use Matrix-pg 6											
Commercial & Commercial Services Uses, continued											
Personal Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.</b>											
Laundry pick-up stations; dry cleaning establishments performing the cleaning processes on site; self-service laundries; nails, beauty and barber shops and salons; shoeshine and shoe repair; tattoo parlors; tanning, steam baths, reducing salons and health clubs; fitness center; tailor and dressmaker shops; tuxedo rental; photographic studios; animal grooming; and domestic services.	IV	S	--	--	--	P	P	C	--	--	--
Medical Marijuana Dispensary	V	--	--	--	--	--	--	--	S	--	--
Funeral services and crematoria.	V	C	C	C	--	C	C	--	S	--	--
Repair Services	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Establishments that offer repair services for small mechanical equipment or consumer goods within an entirely enclosed facility. Includes customer drop-off and pick-up as well as off-site service calls. Does not include repair of motor vehicles.</b>											
Light: Repair of televisions, bicycles, clocks, watches, cameras, shoes, guns, appliances and office equipment; clothing; locks, and upholstery.	IV	S	S	C	C	P	P	C	P	--	--
Medium: Repair of small engines like lawn motors and small electric motors, snowmobiles, boat motors, ATV, trail groomers.	V	S	S	C	C	C	C	C	P	--	--
Research and Development Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>An establishment or other facility for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development.</b>											
Laboratories, research park, computer and related development and testing facility, software development. Other establishments similar to and compatible with the above establishments, as first determined by the zoning administrator.	V	--	--	C	--	C	P	C	P	--	--

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.



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Table 4-1 Use matrix, Page 7

Use Matrix-pg 7											
Commercial & Commercial Services Uses, continued											
Sexually Oriented Businesses	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character.</b>											
Adult bookstore, adult club, adult massage parlor, adult model studio, adult motel, adult theater or escort agency.	V	--	--	--	--	--	--	--	S	--	--
Tourist Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Business establishments providing either/or: lodging/accommodations; gift shops and/or certain tourist related services;and/or recreation that diverts, amuses entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments. Additional state regulations apply to tourist service establishments that serve alcohol.</b>											
Rental, sales and service of non-motorized recreational equipment such as snow ski, bicycle, kayak, canoe, and other rentals. Gift shops, handicraft shops, candy, baked goods, pottery, furniture and other handcrafted enterprises.	V	S	S	S	S	C	P	C	--	--	--
Vehicle Sales and Service Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Retail sales and service of motorized land and water vehicles. Except for filling vehicles with gasoline or diesel, or for an oil change, generally the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, showrooms, sales of parts, and vehicle storage. Does not include: auto body shop; frame reconstruction; repair and service of industrial vehicles and heavy trucks. See also Industrial Services Use Class.</b>											
Sales or rental of new and used motorcycles, snow mobiles, ATV's, and other small personal motorized sporting goods.	V	--	--	S	S	S	P	S	--	--	--
Sales or rental of new and used automobiles, light and medium trucks; mobile homes; and recreational vehicles and trailers; marine sales/services including short-term storage.	V	--	--	S	--	--	P	--	P	--	--
Gasoline and auto service station.	V	--	--	C	--	--	P	C	C	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											

Table 4-1 Use matrix, Page 8

Use Matrix-pg 8											
Industrial & Warehousing Uses											
Dangerous Chemicals and Fuels: Manufacturing, Storage and/or Distribution	LUI Code	Districts									
		R1	R2	R3	R4	M1	M2	M3	I	CR	FR
Manufacturing or storage establishments which produce or store flammable, explosive or corrosive substances subject to state or federal regulation.											
Manufacture and/or storage of fireworks, petroleum products, propane, bottled gas storage, industrial acids or similar substances; refineries.	VI	--	--	--	--	--	S	--	S	--	--
Industrial Service Establishments	LUI Code	Districts									
		R1	R2	R3	R4	M1	M2	M3	I	CR	FR
Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. "Light": fully enclosed; no outdoor operations or storage of materials or vehicles. "Medium": same uses identified in "light", but with some outdoor operations or temporary storage of materials or vehicles. "Heavy": same uses as light or medium, but at a greater scale or volume of activity plus other uses with greater nuisance characteristics. The scale or volume of an otherwise light industrial activity may result in classification as a medium or heavy industrial activity.											
Light: Auto and small truck engine, radiator, transmission, body and frame repair; plumbing or electrical contractors; laundry, dry-cleaning and carpet cleaning plants; diaper services; linen supply services; photo-finishing laboratories.	V	--	--	--	--	--	P	--	P	--	--
Medium: Welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; small truck , body and frame repair; building, heating, general building contractors; exterminators; recycling operations (other than vehicles); fuel oil distributors, solid fuel yards, propane storage and distribution; lawn and garden services.	VI	--	--	--	--	--	P	--	P	--	--
Heavy: Sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; junkyards; heavy truck servicing and repair; tire retreading or recapping; truck stops; asphalt and cement batching and redi-mix; contractors with large equipment stored on site; heavy equipment trade schools; meat and poultry processing and packing (wholesale excluding slaughtering); and auto recycler.	VI	--	--	--	--	--	--	--	S	--	--

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

Bessemer Township Zoning Ordinance

Table 4-1 Use matrix, Page 9

Use Matrix-pg 9											
Industrial & Warehousing Uses, continued											
Extractive Industries	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.</b>											
Sand and gravel extraction processing and transport including manufacture of cement and cement products. Underground mining, processing and transport.	VI	S	S	S	S	S	S	S	S	S	S
Manufacturing Establishments	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary, or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.</b>											
Light: Creameries; bottling works; bakery goods; candy; food products; ice making; taxidermists; printing, publishing and engraving shops; automotive products; vehicle and machinery assembly; fabricated metal products; forming and molding plastic products; cosmetics; pharmaceuticals; toiletries; hardware and cutlery; tool, die, gauge and machine shops; processing of machine parts; musical instruments; toys; novelties; metal or rubber stamps; molded rubber products; monument and art stone production; industrial laundry operations; furniture and related wood products processing facility; assembly of electrical appliances, electronic instruments and devices.	V	--	--	--	--	--	P	--	P	--	--
Heavy: Wood products manufacture involving extensive use of glues and other chemicals, such as sheet boards and chip boards; drop forging; heavy stamping; punch pressing; heat treating, plating, hammering; or other similar activities; automobile, truck, farm or other large equipment assembly; manufacture of metallurgical products; and heavy machinery fabrication; dry bulk blending plant or handling of liquid nitrogen fertilizer and/or anhydrous ammonia.	VI	--	--	--	--	--	--	--	C	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											

*Bessemer Township Zoning Ordinance*

**Table 4-1 Use matrix, Page 10**

<b>Use Matrix-pg 10</b>											
<b>Industrial &amp; Warehousing Uses, continued</b>											
<b>Warehousing and Wholesale Trade Establishments</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time to persons and businesses. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, fueling and maintenance.</p>											
Self-service storage facilities, also known as: mini-warehouses, and rental storage units.	IV	--	--	--	--	--	C	C	P	S	--
Warehousing, storage or transfer buildings, excluding the storage of flammable liquids. Truck, rail or air freight terminals; bus barns; cold storage facilities; parcel services, lumber companies selling at wholesale; stockpiling of sand, gravel or other aggregate materials.	VI	--	--	--	--	--	C	--	P	--	--
<b>Institutional Uses</b>											
<b>Educational Institutions</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>An educational institution is any government or privately-owned and/or operated facility, building or part thereof which is designed, constructed, or used for education or instruction. Educational institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.</p>											
Governmentally or privately owned and operated elementary and secondary schools. Other institutions similar to and compatible with the above uses, including research and development establishments when associated with an educational institution.	IV	C	C	--	--	C	C	S	--	S	--
<b>Religious Institutions</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>Religious institutions primarily provide meeting areas for religious activities. They may be associated with a convent (group housing) or provide caretaker housing or a parsonage on site (as an accessory use). NOTE: Schools, day care centers, homeless shelters, soup kitchens and other uses sometimes associated with religious institutions are separate principal uses.</p>											
Churches, synagogues, temples, mosques.	III	C	C	P	P	C	P	S	--	S	--
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>											

Bessemer Township Zoning Ordinance

Table 4-1 Use matrix, Page 11

Use Matrix-pg 11											
Institutional Uses, continued											
Social Institutions	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<p>A social institution is a privately owned or operated facility which is designed, constructed, or used to provide service of a public, nonprofit, or charitable nature to the people of the community on an ongoing basis (not just special events). Social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.</p>											
Including military schools; business, trade and vocational schools (not construction equipment or large vehicles); art, music and dance schools; drivers' training (not large vehicles); institutions for higher education.	III	--	--	C	--	C	P	C	--	--	--
Facilities to house charitable or philanthropic organizations such as United Way, Red Cross, Salvation Army, as well as centers for social activities such as neighborhood, community or senior centers; auditoriums and other places for public assembly.	IV	C	--	C	--	C	P	--	--	--	--
Public Uses											
Essential Services	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<p>The erection, construction, alteration or maintenance by public utilities or government departments or commissions of overhead, surface or underground gas, communication, telephone, television, electrical, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, BUT NOT INCLUDING communication towers or office buildings, substations, or structures for service equipment, or maintenance depots.</p>											
Telephone, television, and electrical lines (except as noted below); sanitary sewer, storm sewer and water lines; railroad right-of-way and uses related thereto; gas and oil lines that link homes, businesses, schools and other buildings to utility and public services structures, but excluding "structures" such as telephone pedestals, cable television service boxes, and the like, so long as they do not exceed 10 sq. ft. in base building footprint and are no more than 4 ft. tall. Anything more than a pole, box and basic lines are classified as utility and public service installations. Also includes public roads and road rights-of-way.	--	C	C	C	C	C	C	C	C	C	C
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>											

# Bessemer Township Zoning Ordinance

**Table 4-1 Use matrix, Page 12**

Use Matrix-pg 12												
Public Uses, continued												
Public Buildings & Related Facilities	LUI	Districts										
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR	
<b>Buildings housing public services of cities, villages, townships, counties, state and federal government, usually in offices, including publicly-owned "Utility and Public Service Installations" and "Educational and Social Institutions".</b>												
Libraries, museums, township hall, county courthouse, police & fire station, public works, publicly owned tourist info centers, and any publicly-owned "Utility and Public Service Installations".	III	S	--	S	S	S	S	S	--	S	--	
Roadside parks and all other public parks.	I	C	C	C	C	C	C	C	--	C	C	
Cemetery.	I	--	--	C	C	--	P	--	--	C	--	
Utility and Public Service Installations	LUI	Districts										
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR	
<b>A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance.</b>												
Light: Electrical substations, gas regulator stations; radio, television, cellular, and microwave transmitter towers or other communication towers; satellite antennas larger than ten feet in diameter.	IV	--	--	C	C	C	C	C	C	S	S	
Heavy: Water and sewage treatment facilities; water towers; large scale artificially constructed stormwater retention and detention facilities; telephone exchanges; recycling collection centers; solid waste; road maintenance and other public works garages.	VI	--	--	S	S	--	S	S	S	S	S	
Refers to buried 345kv or larger electric transmission lines. (345kv or larger overhead electric transmission lines and towers constructed after the effective date of this Ordinance are prohibited in Bessemer Township)	--	--	--	S	S	S	S	S	S	S	S	
Public airports.	V	--	--	S	S	--	S	S	--	S	S	
Rail yards.	VI	--	--	C	C	C	C	C	C	S	S	
WECS towers under 35 feet in height.	III	S	S	C	C	C	C	C	C	S	S	
WECS towers between 35 and 80 feet in height.	III	--	--	S	S	S	S	S	S	S	S	
WECS towers over 80 feet in height.	IV	--	--	--	S	S	S	S	S	S	S	

Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.

*Bessemer Township Zoning Ordinance*

**Table 4-1 Use matrix, Page 13**

<b>Use Matrix-pg 13</b>											
<b>Residential Services Uses</b>											
<b>Institutions for Human Care and Habitation</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>Institutions for human care include a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be developmentally dependent, ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, etc.). Does not include correctional facilities. See definitions in Section 15.</p>											
Nursing or convalescent homes; homes for the aged; assisted living facilities; orphanages; sanitariums; halfway houses; spouse abuse shelters; and homeless shelters.	III	S	S	C	C	S	C	S	--	--	--
<b>Community Residential Care Facilities</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>Community residential care facilities provide part- or full-time shelter and specialized care for individuals in facilities or single family dwellings. These are all state-regulated facilities. See definitions in Section 15.</p>											
Large Child/Day Care Centers with over 6 children; Child Caring Institutions; Children's Therapeutic Group Homes; Adult Foster Care Facilities, and Adult Foster Care Congregate Facilities.	IV	--	--	C	C	C	C	--	--	--	--
<b>Group Housing</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It may be a form of transient lodging. There is usually a common eating area for residents.</p>											
Monasteries, seminaries and convents. Boarding house, rooming house, fraternity or sorority. Other housing similar to and compatible with the above housing. Does not include prisons, other correctional facilities, community residential care facilities or institutions for human care.	III	S	--	S	S	S	S	--	--	--	--
<b>Mobile Home Park and Manufactured Housing Community</b>	<b>LUI</b>	<b>Districts</b>									
	<b>Code</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>I</b>	<b>CR</b>	<b>FR</b>
<p>See definitions in Article 2.</p>											
Mobile home park and manufactured housing communities.	III	--	--	S	--	--	S	--	--	--	--
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>											

Bessemer Township Zoning Ordinance

Table 4-1 Use matrix, Page 14

Use Matrix-pg 14											
Residential Services Uses, continued											
Multiple Family Dwellings	LUI Code	Districts									
		R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>A building or portion thereof used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage.</b>											
Apartment building, townhouses, and row houses, garden apartments, and condominiums when considering the entire structure (not the individual dwelling units). Other housing similar to and compatible with the above housing.	III	C	C	C	--	C	C	C	--	--	--
Single Family Dwelling	LUI Code	Districts									
		R1	R2	R3	R4	M1	M2	M3	I	CR	FR
<b>A building containing not more than one dwelling unit used, intended or designed to be used as the home, residence or sleeping place of one-family and those under their care.</b>											
Single family dwelling, site condominium, mobile or manufactured home on an individual lot. Other housing similar to and compatible with the above housing.	II	P	P	P	P	P	P	P	--	P	P
Temporary dwellings, tents/yurts, recreational vehicles (not in campgrounds).	--	C	C	C	C	C	C	C	--	C	C
Cabins and camps for a single family for seasonal occupancy.	I	C	C	C	P	C	C	P	--	C	C
Open space and rural cluster developments.	III	S	S	C	C	--	C	S	--	S	S
Child Care Center/Day Care Center with fewer than 7 children; Family Child Care Homes; Group Child Care Homes; Adult Foster Care Family Home; Adult Foster Care Small and Large Group Homes; Foster Family Home; Foster Family Group Home. State Licensed Residential Facility. <b>See Definitions in Section 15.</b>	II	P	P	P	P	P	P	P	--	P	P
Bed and Breakfast Establishments	III	C	C	C	C	C	C	C	--	--	C
An ECHO unit (also known as mother-in-law flat) approved pursuant to <b>Section 9.4.1</b> does not redefine a single-family dwelling as a two-family dwelling for the purposes of this Ordinance.	II	C	C	C	P	C	C	C	--	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											



Bessemer Township Zoning Ordinance

Table 4-1 Use matrix, Page 15

Use Matrix-pg 15											
Residential Services Uses, continued											
Two-Family Dwelling	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
A building containing not more than two dwelling units, each designed and used exclusively as the home, residence or sleeping place of one-family.											
A duplex; a building with two dwellings constructed side-by-side, front-to-back, over and under, or some combination of the above. Can be new construction or modification of an existing structure provided each dwelling is separate. Other housing with only two units similar to and compatible with the above housing.	II	P	P	P	--	P	P	P	--	--	--
Special Mixed Uses											
Mixed-Use Development	LUI	Districts									
	Code	R1	R2	R3	R4	M1	M2	M3	I	CR	FR
Two (2) or more different primary land use components vertically or horizontally integrated in an arrangement not otherwise permitted under a single zoning district, and sharing a common circulation system including both vehicular and pedestrian ways and possibly a system of common open spaces that may include recreational and natural areas.											
Mix of uses such as compatible commercial and commercial services, institutional, public offices, residential services.	IV	S	S	--	--	S	S	S	--	--	--
Planned Unit Development (PUD)	LUI	District									
	Code	PUD									
A planned residential, commercial, industrial, public or semi-public land use development consisting of two or more principal uses located on a parcel of land or prescribed minimum area and approved by the Township after site plan review. A PUD may include such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.											
Single family or multiple family developments with cluster units around common open space; mixed use developments such as golf course communities surrounded by residences; ski resorts with common lodging, detached and/or attached single family residences; neotraditional or new urbanist developments mixing single family homes around a traditional small town commercial area with a common public open space; research and small manufacturing facilities in a campus like setting. NOTE: Rural cluster developments are <u>not</u> PUDs. They are exclusively single-family residential developments permitted pursuant to Section 9.3.6.2.A.	IV	P -- once approved per Article 10.									
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.											

## Bessemer Township Zoning Ordinance

**Table 4-2 Accessory Use matrix**

Accessory and Temporary Use Matrix											
Accessory or Temporary Use	Districts										Standard Reference*
	CR	R1	R2	R3	R4	M1	M2	M3	I	FR	
Accessory Dwelling Units, ECHO Housing	--	C	C	P	P	--	--	--	--	--	Section 9.4.1
Bus Shelters	--	S	S	S	--	S	S	S	S	--	Section 9.4.2
Equestrian Facility (accessory)	S	--	--	--	C	--	--	S	--	--	Section 9.4.3
Food Stands (temporary)	P	--	--	C	P	C	C	--	--	--	Section 9.5.1
Garages or Carports (accessory residential)	--	P	P	P	P	P	P	--	--	--	Section 5.3
Gardens or orchards in required yards (accessory)	P	P	P	P	P	--	--	P	P	P	Section 5.4.5.4
Gazebos and similar outdoor shelters	--	P	--	P	P	--	--	P	--	--	Section 5.3.5.2
Greenhouses or Aquaculture Systems (accessory)	P	S	C	S	P	S	S	C	P	--	Section 9.4.4
Home Occupations (accessory)	--	S	S	S	S	P	P	P	--	--	Section 9.4.5
Outdoor Display & Sales (accessory or temporary)	--	--	--	--	--	C	C	C	--	--	Section 9.4.6
Outdoor Food & Beverage Service (accessory or temporary)	--	--	--	S	S	P	P	P	C	--	Section 9.4.7
Outdoor Storage - unenclosed (accessory or temporary)	S	--	--	S	S	--	--	--	P	S	Section 9.4.8
Paved Outdoor Recreation Facilities (accessory)	--	--	--	--	--	S	S	P	P	--	Section 9.4.9
Porches, Decks, Patios	P	P	P	P	P	P	P	P	P	--	Section 5.2.4
Poultry Keeping and Production (accessory)	P	C	C	P	P	--	P	--	P	P	Section 9.4.10
Saunas or Small Sheds (accessory residential)	P	C	P	P	P	--	--	P	--	--	Section 5.3
Storage or Service Buildings (accessory nonresidential)	P	--	--	P	P	C	C	P	P	--	Section 5.3
Swimming Pools (accessory)	--	S	S	C	C	--	--	C	--	--	Section 9.4.11
Transient Amusement Enterprises (temporary)	--	--	--	--	--	--	--	C	C	--	Section 9.5.2

\*Besides those referenced, see District Standards in Article 6 and all other appropriate provisions of Article 5.

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**ARTICLE 5: GENERAL PROVISIONS**

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**SECTION 5.1 PURPOSE**

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The provisions of this Article generally apply to all zoning districts unless indicated otherwise. Any conflicts between this article and the individual zoning district requirements resolve in favor of the latter.

**SECTION 5.2 GENERAL STRUCTURES REGULATIONS**

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**5.2.1 HEIGHT EXCEPTIONS**

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The following non-residential structures and appurtenances shall be exempt from height regulations in all zoning districts in which they are permitted, provided no portion of the excepted structure may be used for human occupancy:

- 5.2.1.1** Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks and water towers, elevator and stairwell penthouses, ventilators, fire and hose towers, cooling towers, grain elevators, stacks, stage towers or scenery lofts, monuments, cupolas, domes, church steeples and spires, parapet walls not exceeding six (6) feet in height, or other structures where the manufacturing process requires a greater height, provided these appurtenances do not exceed seventy-five (75) feet in height or not more than fifteen (15) feet higher than the highest point of the structure, whichever is higher, and are set back a distance from the property line at least equal to the height of the structure above the roofline. Public-owned water tanks and water towers are not subject to any height limitation.
- 5.2.1.2** Flagpoles and ham or amateur radio towers shall not exceed thirty-five (35) feet in height.
- 5.2.1.3** Except in the I-2 General Industrial District, all objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational vehicles and boats.

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**5.2.2 HEIGHT IN RELATION TO GRADE (FILL)**

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Filling with earth or other materials to an elevation above the established or natural grade of adjacent land is prohibited without the express written approval of the Zoning Administrator. The intent of this provision is to prohibit the erection of buildings taller than the natural grade plus what the height restriction of this *Ordinance* would otherwise permit. Whenever deemed possible by a Professional Engineer, all water runoff shall be stored on site; no water shall be directed into public storm drains, sanitary sewers, or a vacant lot abutting property

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unless owned by the applicant. Where a new building is constructed between two existing buildings, or on a vacant lot adjacent to an existing building, the natural grade shall be used to determine the finished grade for the new building and the required yard space.

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### **5.2.3 ADDITIONS**

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All proposed additions shall meet the setback and area requirements of this *Ordinance*.

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### **5.2.4 PORCHES AND DECKS**

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**5.2.4.1** All proposed enclosed porches and all existing open porches, decks, or patios proposed for enclosure shall meet the setback and area requirements of this *Ordinance*.

**5.2.4.2** An open, unenclosed, and uncovered porch or deck six (6) inches or more above finished grade shall meet the setback and area requirements of the district for a principal building if connected to and accessed from the principal building. Otherwise the porch or deck shall meet the yard and area requirements for an accessory structure.

**5.2.4.3** Paved terraces, patios, and unenclosed, uncovered porches and decks shall not be subject to yard requirements, provided that all of the following conditions are met:

- A) It is less than six (6) inches above the finished grade.
- B) The paved or decked area is unroofed and without continuous enclosure linking it to the principal building in such a way that it appears functionally a part of the principal building.
- C) No portion of any paved or decked area is closer than three (3) feet from any side or rear lot line.

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### **5.2.5 SINGLE FAMILY DWELLINGS**

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#### **5.2.5.1 INTENT**

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It is the intent of this Section to provide a wide variety of single family housing options in Bessemer Township, including the need for lower cost single family housing, while protecting the public health and safety. The purpose of this Section is to provide standards for the construction, installation, and appearance of all single family homes to ensure compatibility. The following minimum requirements apply to all dwelling units outside of mobile home parks:

#### **5.2.5.2 REQUIREMENTS**

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- A) All construction required in this Section shall be commenced only after a building permit has been obtained in accordance with the applicable *Michigan Construction Code* provisions and *Ordinance* requirements.

## *Bessemer Township Zoning Ordinance*

- B) Mobile homes not conforming to the standards of this Section shall not be occupied unless located within a mobile home park, or unless used for temporary residence purposes as provided in Section 5.2.6.
- C) Requirements for all Single Family Homes:
- (1) Shall have a minimum width of twenty (20) feet over fifty (50) percent of the entire structure length.
  - (2) Shall comply with all pertinent building and fire codes and all applicable roof snow load and strength requirements.
  - (3) Shall remove the wheels, pulling mechanism, and tongue before placement on a permanent foundation meeting the requirements of the building code.
  - (4) Shall be connected to a sewer system and water supply system approved by the District Health Department or municipal utilities.
  - (5) Shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade.
  - (6) Shall provide a minimum of two points of ingress and egress.
  - (7) Shall construct all additions with similar or better quality materials and workmanship as the original structure, including permanent attachment to the principal structure and construction of a permanent foundation. Additions shall also meet the requirements of Section 5.2.3.
  - (8) Shall have a minimum of 4/12 roof pitch, with either a roof overhang of not less than six (6) inches on all sides, or alternately, window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
  - (9) Innovative design concepts involving renewable energy infrastructure, passive energy or solar design, climate mitigation, orientation to views, design for Universal Access, and incorporation of natural features that are consistent with the standards of this *Ordinance* shall be encouraged.
  - (10) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development of Housing and Urban Development Regulations entitled "*The National Manufactured Housing Construction and Safety Standards Act of 1974*", 42 U.S.C. 5401 et seq.; 24 CFR Part 3280 and Part 3282. All other dwellings shall meet the requirements of the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*

## *Bessemer Township Zoning Ordinance*

- (11) Legal nonconforming mobile homes (not temporary) located outside mobile home parks, upon removal, shall be replaced with a mobile home in good condition that meets all requirements of this Section, and is certified by the *American National Standards Institute* or the *National Manufactured Housing Construction and Safety Standards Act of 1974*, or is a site constructed home or manufactured home that meets all applicable code requirements.

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### **5.2.6 TEMPORARY BUILDINGS AND STRUCTURES**

#### **5.2.6.1 HABITATION OF ACCESSORY STRUCTURES, TENTS, YURTS, AND TRAVEL TRAILERS**

Except for tents and recreational vehicles in legitimate campgrounds, no structure that does not meet the minimum standards for a dwelling unit as defined in this *Ordinance* and the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, shall be used for dwelling purposes for more than fourteen (14) days in succession nor more than sixty (60) days in one (1) year. Occupancy in excess of these time frames requires a Temporary Zoning Permit or a Conditional or Special Land Use Permit pursuant to Article 14, or must be a year-around dwelling per the applicable requirements of this *Ordinance*.

#### **5.2.6.2 TEMPORARY DWELLING UNITS**

The Zoning Administrator may issue a Temporary Zoning Permit per the requirements of Article 14 for a mobile home or other temporary dwelling unit used for temporary dwelling purposes, subject to the following provisions:

- A) The purpose of the temporary housing is to provide on-site housing for residents of the lot while a new dwelling unit is being constructed or rebuilt;
- B) The permit is for a period not longer than one (1) year based on evidence presented by the applicant that he/she can have the foundation and complete building framing in place within six (6) months and the entire residence completed within one (1) year. This period may be extended up to one (1) additional year by the Zoning Administrator when the following standards are met:
  - (1) A good faith effort has been shown to build a new or rebuild a destroyed dwelling unit;
  - (2) The time extension is reasonably necessary considering the practical difficulties associated with actual construction;
  - (3) Occupancy of the structure being rebuilt is reasonably possible within the time extension;
  - (4) Granting of the time extension to the applicant and other similarly situated parties will not prohibit enforcement of any provisions of this *Ordinance*, unduly overburden administration and enforcement resources, or adversely affect general health, welfare and safety of adjacent properties or the general community.
- C) A residence is permitted in that district;

## *Bessemer Township Zoning Ordinance*

- D) A performance guarantee pursuant to Article 14 is collected and said temporary dwelling is removed within fifteen (15) days after construction is complete.
- E) The following additional approvals are obtained:
  - 1) Any applicable permits from the Building Inspector;
  - 2) Approval of a septic system and well from the District Health Department;
  - 3) A driveway permit from the Gogebic County Road Commission or Michigan Department of Transportation, as applicable.
- F) Any mobile home permitted by temporary permit for purposes other than those described in this Section before the effective date of this *Ordinance* may be issued a temporary permit by the Zoning Administrator for continuation of use by the present occupant, but no other occupant, provided the dwelling remains in good structural condition, the septic system and well remain approvable by the District Health Department, and a performance guarantee pursuant to Article 14 is collected to ensure the temporary mobile home is removed within thirty (30) days of its no longer being used by the present occupant.

### **5.2.6.3 TEMPORARY CONTRACTOR BUILDINGS**

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Temporary structures and temporary uses incidental to construction work, such as contractor storage buildings, semis, or mobile homes used for contractor equipment, foreman offices, and related activities, but not for habitation are exempt from setbacks, and Temporary Zoning Permit requirements, subject to the following provisions:

- A) Such buildings, structures or uses impede no clear vision area;
- B) Structures are removed upon the completion or abandonment of the construction work or within one (1) year from date of placement, whichever period of time is the shortest.

### **5.2.6.4 TEMPORARY REAL ESTATE OFFICES**

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Temporary real estate offices are permitted within approved development projects subject to the following provisions:

- A) No cooking or sleeping accommodations shall be maintained.
- B) The temporary Zoning Permit shall be valid for not more than one (1) year, but is renewable.
- C) The office shall be removed upon sale of ninety (90) percent of the lots in the development.
- D) A model home may be used as a temporary sales office.

### **5.2.6.5 TEMPORARY BUILDINGS INCIDENTAL TO A CHURCH OR SCHOOL**

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Temporary buildings incidental to a church or school are permitted subject to the following provisions:

- A) All wiring, plumbing, fire protection, and exits are approved by the Fire Chief and Building Inspector.

## *Bessemer Township Zoning Ordinance*

- B) The structures meet the requirements of all relevant state agencies.
- C) All yard requirements of this *Ordinance* are met.

### **5.2.6.6 CHRISTMAS TREE SALES LOTS**

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The display and sale of Christmas trees on the site of a permitted nonresidential or mixed use, or at a church in any district, is permitted without a temporary Zoning Permit provided it is incidental and accessory to the principal use, or is a temporary use of a vacant lot, subject to the following provisions:

- A) The display and sale of Christmas trees is permitted for a period not to exceed forty-five (45) days.
- B) All unsold trees must be removed from the property by December 31 of each calendar year.
- C) Any sales of Christmas trees in a location or under circumstances other than those defined above is permitted only by a Temporary Zoning Permit issued at the discretion of the Zoning Administrator.

### **5.2.6.7 AUCTIONS**

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The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within twenty-five (25) feet of any street or road right-of-way. Off-street parking areas shall be provided and parking is prohibited within the right-of-way of a major thoroughfare.

### **5.2.7 RAZING OF BUILDINGS**

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No building shall be razed until a demolition permit has been obtained from the Building Inspector in consultation with the Township Supervisor who shall be authorized to require a performance bond in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. That bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the Township shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid within three (3) months. This performance bond will be administered as described in Article 14 except, as described above, the Building Inspector and the Zoning Administrator are responsible for administering this requirement, and Planning Commission approval is not necessary to return the bond.



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### **5.2.8 MOVING OF BUILDINGS**

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No existing building or structure shall be moved into or within the Township unless in accordance with a moving plan approved by the Zoning Administrator. The relocated structure shall comply with all the requirements of this *Ordinance*.

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### **5.2.9 DAMAGED BUILDINGS**

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Any building or structure that has been partially destroyed by fire, storm, water, or other disaster, or is in such a state of disrepair as to be declared unsafe or unfit for human occupancy by the proper authority, shall either be entirely removed or repaired by the owner within twelve (12) months from the date of the determination or the effective date of this *Ordinance*. In the interim, the site shall be fenced or otherwise protected and prevented from becoming a nuisance.

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## **SECTION 5.3 GENERAL ACCESSORY STRUCTURES REGULATIONS**

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### **5.3.1 SUBORDINATE TO PRINCIPAL USE**

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Accessory uses and structures must be subordinate to the principal use and structure on the subject lot in terms of area, extent, and purpose.

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### **5.3.2 TIME OF ESTABLISHMENT**

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**5.3.2.1** Accessory structures must be constructed in conjunction with or after the principal building, and may not be constructed prior to the construction of the principal building, except per the provisions in this subsection:

- A) A permitted accessory structure may be erected following receipt of a Certificate of Zoning Compliance and building permit and all other appropriate permits for the accessory structure as well as the principal structure on the lot.
- B) Legitimate agricultural accessory structures can be erected independent of a permitted principal structure in the R-3, R-4, M-2, M-3, I, CR, and FR districts.

**5.3.2.2** If a garage or other accessory structure is built before a dwelling, where permitted above, the building footprint for the dwelling must be established prior to determining the size of the accessory structure, and before a Certificate of Zoning Compliance can be issued. The permitted single family dwelling which the accessory structure is to accompany shall be erected within two (2) years.

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### **5.3.3 USE OF ACCESSORY STRUCTURES AS A DWELLING**

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No garage or other accessory structure may be used as a dwelling before or after a principal structure is erected unless otherwise provided in this *Ordinance*.

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### **5.3.4 ACCESSORY STRUCTURE REQUIREMENTS**

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Standards for site, placement, setback, and height of accessory structures are detailed within the District standards of Article 6. Total lot coverage may not exceed the requirements within the District standards.

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### **5.3.5 ACCESSORY STRUCTURE YARD EXCEPTIONS**

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The yard requirements of this *Ordinance* may be waived for the following accessory structures:

- 5.3.5.1** Mechanical structures, such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed in front yards, but they may be located in rear or side yards if they are located at least three (3) feet from rear and side lot lines.
- 5.3.5.2** Freestanding gazebos and other similar outdoor shelters, saunas, and small sheds are not allowed in front yards (except as below), but they may be located in rear or side yards if they are located at least three (3) feet from the rear and side lots lines, and the parcel complies with total lot coverage requirements. These structures may be allowed in the front yard (water side) of waterfront properties.
- 5.3.5.3** Fences or screening walls, as permitted by Section 5.6, may be located in any required yard. Residential fences are permitted on the property lines in residential districts. Fences and walls shall not be closer than three (3) feet to any alley right-of-way.
- 5.3.5.4** Essential services, utilities, electric power, and communications transmission lines are exempt from the yard and setback requirements of this *Ordinance*. See applicable standards in Section 5.8.
- 5.3.5.5** Landscaping and vegetation are exempt from the yard and height requirements except for living fences as in accordance with Section 5.6 of this *Ordinance*.

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## **SECTION 5.4 GENERAL LOT REGULATIONS**

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### **5.4.1 TWO DWELLING UNITS ON A LOT**

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## *Bessemer Township Zoning Ordinance*

No lot on which a dwelling unit is permitted may have a second dwelling unit erected on the lot except as provided in this *Ordinance* for accessory dwellings units (Section 9.4.1), duplexes, or multi-unit dwellings (Section 9.3.6).

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### **5.4.2 LOTS OF RECORD**

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A lot of record may be used as specified in the zoning district in which it is located. Any structure shall be located on the lot in compliance with all yard and setback requirements for the zoning district in which the lot is located.

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### **5.4.3 DIVISION OF LOTS**

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No lot shall be divided except in conformance with the requirements of the *Land Division Act, Public Act 288 of 1967, being MCL 560.101 et seq. as amended*, and any applicable Township ordinances.

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### **5.4.4 COMBINATION OF LOTS**

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No lot shall be divided and combined with an abutting lot if the portion remaining following the division would not meet the minimum requirements for lots in the district, including the ability to be connected to municipal utilities, or to support a septic system and well under the requirements of the District Health Department.

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### **5.4.5 YARD PROVISIONS**

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#### **5.4.5.1 AVERAGE FRONT YARDS**

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The required front yards may be decreased in any residential or mixed-use district to the average of the existing front yards of the abutting two structures on each side (exempting vacant lots), but in no case less than ten (10) feet (except for nonresidential or mixed-uses in the M-1 district which require no minimum front setback).

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#### **5.4.5.2 PROJECTIONS IN YARDS**

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A) No buildings or structures shall encroach on a clear vision triangle per Section 5.4.5.3.

## *Bessemer Township Zoning Ordinance*

- B) For existing structures, ramps to accommodate wheelchairs and/or related devices to assist the handicapped or infirm are permitted to encroach on the yard requirements of any district, provided an application for a Certificate of Zoning Compliance is filed with the Zoning Administrator who shall find as a condition of issuing the requested permit that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. No ramp is permitted to extend from a front or side door directly to the front sidewalk or curb, if it is reasonably feasible to connect to an existing private sidewalk or paved driveway. Ramps may not be covered within any required front yard. For ramps constructed as part of a new building, ramps must meet all setback requirements. Ramps must meet the requirements imposed by all applicable federal, state and local regulations.
- C) Self-supporting awnings in residential districts may project into a required yard area no more than three (3) feet and in commercial or industrial districts no more than five (5) feet. Awnings shall be at least eight (8) feet above grade at every point. No awning except a fully retractable awning shall be erected over public right-of-way.
- D) Uncovered stairs, landings, and fire escapes may project into any yard, but not to exceed six (6) feet, and not closer than three (3) feet to any lot line.
- E) Architectural projections such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any required yard, but such projection shall not exceed four (4) feet, and shall not be closer than three (3) feet to any lot line.

### **5.4.5.3 CLEAR VISION AREA**

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No fence, wall, shrubbery, sign, or other buildings, structures, or objects other than official traffic or governmental signs shall be placed so as to obstruct clear vision for motorists within the clear vision area at intersecting streets and intersections of streets and driveways as described below and illustrated in Figure 15-5 of Article 15:

- A) At the intersection of two streets, or where a street intersects with an alley: a triangle defined by measuring twenty-five (25') feet in length along each street/alley right-of-way line from their point of intersection, the third side being a diagonal line connecting the first two.
- B) At the intersection of a driveway and a street: Two sides of the triangle defined by measuring twenty (20') feet in length along the edge of the driveway and along the street right-of-way line and the third side being a diagonal line connecting the first two. Both sides of the driveway shall be protected.
- C) No shrubs, ground covers, boulders, berms, fences, or other material constituting visual obstructions will impede clear vision in a vertical area between 24 inches and 96 inches above the grade of the lower roadway or driveway adjacent to the triangular areas.

## *Bessemer Township Zoning Ordinance*

### **5.4.5.4 GARDENING OR ORCHARDS IN REQUIRED YARDS**

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- A) The following improvements shall be allowed in required yards for the purpose of growing fruits and vegetables, but no closer than three (3) foot from any property line and not within the specified clear vision area:
  - (1) Trellises and arbors, provided they are:
    - a. No taller than four (4) feet in the front yard.
    - b. No taller than six (6) feet in side or rear yards.
  - (2) Raised planting beds up to eighteen (18) inches tall.
  - (3) Temporary hoop houses or plant covers for early start-up of plants, provided:
    - a. These covers do not exceed three (3) feet tall; and
    - b. Are removed by June 30 of each year; and
    - c. Are maintained in good repair.
- B) All dead plant growth shall be removed at the end of the growing season.
- C) Nothing herein is intended to preclude any person from filing a private nuisance action against an offensive agricultural use.

### **5.4.5.5 EXCEPTIONS TO SITE LAYOUT STANDARDS**

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The Planning Commission may alter site layout standards to accomplish any of the following beneficial outcomes:

- A) Create development that is more supportive of the continued existence and health of natural features or biological conditions such as (but not limited to) steep slopes, wetlands, existing trees, geological features, or habitat, than otherwise provided in this *Ordinance*;
- B) The alteration better mitigates harsh, winter conditions and thereby creates a more supportive pedestrian environment;
- C) The alteration serves to best optimize opportunity for passive solar design;
- D) The alteration allows natural, on-site stormwater management in areas of intense surface run-off.
- E) More inclusive design meant to better accommodate those with disabilities.

## **SECTION 5.5 GENERAL PARKING AND LOADING REGULATIONS**

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### **5.5.1 INTENT**

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This section is intended to support master plan goals for a balanced transportation system. Each property owner in every zoning District shall provide and maintain parking areas for off-street storage of motor vehicles adequate for the use of occupants, employees, and patrons of each property subject to the provisions of this *Ordinance*, except as otherwise provided by this *Ordinance*. Parking standards are intended

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to minimize the detrimental effects of parking surfaces on adjacent lands, improve the visual aesthetics of parking areas, prevent excessive amounts of off-street parking, encourage appropriate development and redevelopment, enhance the compatibility of auto circulation systems with pedestrian and bicycle circulation, and provide for more beneficial stormwater management.

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### **5.5.2 APPLICABILITY**

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- 5.5.2.1** Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications or a change in use result in an increase in the required parking under this *Ordinance*, additional parking shall be provided and maintained as required by this *Ordinance*.
- 5.5.2.2** No parking area, parking space, or loading area which exists on the effective date of this *Ordinance*, or which is later provided for in compliance with this *Ordinance*, shall thereafter be relinquished or reduced below the requirements established by this *Ordinance* until equal or better parking facilities in compliance with this *Ordinance* are provided, or until the Planning Commission determines that the parking requirements of the site have changed.

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### **5.5.3 CALCULATING THE REQUIRED AND ALLOWED NUMBER OF PARKING SPACES**

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The following standards shall be used to determine the required number of parking spaces:

- 5.5.3.1** No parking space located within or along the traveled portion of any street shall be counted toward the off-street parking requirements set forth in this *Ordinance*, but could be considered in a decision to reduce parking requirements per Section 5.5.7.
- 5.5.3.2** *Useable floor area* is defined as the gross floor area used for services to the public, including those areas occupied by fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities, or other areas where customers, patients, clients, salesmen, and the general public are denied access. Floor area, whether usable or gross, shall be measured from the exterior faces of exterior walls, except in a case where an interior building wall separates two uses or users. In such a case, the floor area shall be measured from the inside face of such an inside wall.
- 5.5.3.3** When a calculation determining the number of required parking spaces results in a fractional space, any fraction shall be counted as one (1) additional space.
- 5.5.3.4** Requirements for parking stated in terms of employees shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- 5.5.3.5** When benches, pews, or other similar seating is used in calculations, each twenty-four (24) inches of that seating shall be counted as one seat, unless Table 5-1 specifies otherwise.

## *Bessemer Township Zoning Ordinance*

- 5.5.3.6** Plans and specifications showing the number of required off-street parking spaces for every use, as listed on Table 5-1, shall be provided and approved prior to the issuance of a zoning or building permit. Any proposed use for which there is no comparable use parking standard in Table 5-1 shall conform to the standard for that use in the most recent edition of Parking Standards published by the American Planning Association. If there is more than one principal use on a lot, then the combined parking requirements for each of the permitted uses must be met unless there is an approved joint use agreement as set forth in Section 5.5.4.
- 5.5.3.7** Accessible parking spaces required under the Americans with Disabilities Act shall be counted toward the number of parking spaces required under this section.
- 5.5.3.8** Loading and unloading spaces required under Section 5.5.12 shall not be counted toward the number of parking spaces required under this section.
- 5.5.3.9** See District standards in Article 6 for any district appropriate exceptions to these standards.

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### **5.5.4 JOINT USE OF PARKING AREAS**

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#### **5.5.4.1 APPLICABILITY**

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The joint use of parking areas by two or more uses may be approved by the Zoning Administrator whenever such joint use is practical and satisfactory to each of the uses served, and when all requirements for location, design, and construction are met. Except as otherwise provided in this *Ordinance*, shared parking shall not include the parking required for residential uses.

#### **5.5.4.2 COMPUTING CAPACITY**

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In computing capacities of any joint parking area, the total parking space requirement is the sum of the greatest number of parking spaces required for the individual uses that will occur at the same time. If the maximum space requirements for individual uses occur at distinctly different times, the total number of off-street parking spaces required for joint use may be reduced by the Zoning Administrator to not less than one-half (1/2) the number of required spaces provided on any one (1) lot. The lots shall be interconnected for vehicular and pedestrian circulation.

#### **5.5.4.3 CONFIGURATION**

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Whenever possible, joint or cooperative parking arrangements shall utilize shared driveways, shared service drives, cross access drives, and frontage roads to minimize driveways that access an arterial or collector street. Cross-access easements, if necessary, shall be submitted to the Township for approval.

## *Bessemer Township Zoning Ordinance*

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### **5.5.4.4 RECORD OF AGREEMENT**

A copy of an agreement between joint users shall be filed with and must be approved by the Zoning Administrator prior to the issuance of the Certificate of Zoning Compliance. The agreement shall include provisions for the continued long-term use and maintenance of the parking area as well as the allocation of parking spaces to each use.

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### **5.5.5 PARKING REQUIREMENT DEFERMENT**

**5.5.5.1** Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that an area of sufficient size to meet the parking space requirements of this article is retained as open space, and the owner agrees in writing to construct the additional parking based on observed usage within six (6) months of receipt of a written response to the request by the Zoning Administrator.

**5.5.5.2** The site plan shall note the area where parking is being deferred, including dimensions and parking lot layout.

**5.5.5.3** Proof of an approved stormwater management plan for the complete parking area, including any deferred spaces, must be submitted.

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### **5.5.6 ADDITIONAL PARKING**

To minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, no parking lot shall exceed the minimum parking space requirements by ten percent (10%) greater than required except as approved by the Zoning Administrator. In granting additional spaces, the Zoning Administrator shall determine that the parking will be required, based on documented evidence of actual use and demand provided by the applicant.

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### **5.5.7 PARKING REQUIREMENT REDUCTION**

The Planning Commission, based on a Tier 3 review for a Special Land Use, may approve a decision to reduce off-street parking requirements based on the following factors:

**5.5.7.1** Buildings, structures, or uses are within three-hundred (300) feet of a transit stop.

**5.5.7.2** The use offers a car sharing service or shared parking arrangement.

**5.5.7.3** A development located in a mixed-use district offers a payment in lieu of providing off-street parking to the special assessment fund for the Township to help develop public parking facilities.

**5.5.7.4** On-street or publicly-owned parking lots or structures can provide a portion of the minimum off-street parking requirements, provided that all these factors are met (a parking demand study may be required for this determination):



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- A) This parking is available within three-hundred (300) feet of the main building entrance; and
- B) No more than fifty (50) percent of the off-street parking space requirement is met through the use of on-street or publicly-owned parking; and
- C) The intensity of the use and its parking requirements shall not substantially adversely impact surrounding uses; and
- D) There is no negative impact to existing or planned traffic circulation patterns.

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### **5.5.8 LOCATION OF PARKING**

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- 5.5.8.1** *Same lot requirement:* Unless otherwise permitted under this *Ordinance*, all off-street parking facilities in residential districts shall be located on the same lot as the use they are intended to serve.
- 5.5.8.2** *300 feet rule:* Off-street parking facilities in mixed-density residential, mixed-use, and non-residential districts shall be provided within three hundred (300) feet of the principal building. If on adjacent premises, they shall be under the ownership of the applicant or part of an approved joint parking area under Section 5.5.4 above. If no parking is available on the same or an adjacent lot, the applicant shall submit a request with the Planning Commission for a Special Land Use Permit according to the provisions of Section 5.5.5 or Section 5.5.7 above.
- 5.5.8.3** *Alleys:* Where a parking area abuts an alley, access to the parking area shall be obtained from the alley. Where a parking area does not abut an alley, and abuts two (2) or more streets, access to the parking area shall be from the street with the lower traffic volumes. The Zoning Administrator may waive this requirement if, due to the particular situation of the parcel, this requirement cannot be satisfied.

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### **5.5.9 PARKING AREA PLAN REVIEW**

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Whenever vehicle parking spaces are required for a given use, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the Zoning Administrator for review and approval before a zoning and/or building permit is issued. Such plans and specifications shall at minimum include:

- 5.5.9.1** Existing and proposed grades
- 5.5.9.2** Location of buildings and parking areas, including size and site design
- 5.5.9.3** Basis of capacity calculation
- 5.5.9.4** Specifications on surface and base materials for construction
- 5.5.9.5** Locations and applicable dimensions of marking, lighting, drainage, curb cuts, entrances, exits, landscaping, signage, and any other detailed feature essential to the complete design and construction of the parking area.
- 5.5.9.6** For site development requirements for off-street parking and loading, see Section 5.5.12.

Table 5-1  
Page 1

<b>Parking Standards -- Minimum number of parking spaces per unit of measure and per use</b>	
<b>Residential and Related Uses</b>	
Bed and breakfast operations	One (1) space for each sleeping room, plus two (2) spaces for permanent residents.
Boarding houses, fraternities, and sororities	One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater.
Community residential care facilities (6 or less persons)	Four (4) spaces.
Convalescent homes, convents, and large residential care facilities (over 6 persons)	One (1) space for each three (3) beds, plus one (1) space for every three (3) employees.
Mobile home parks	Two (2) spaces for each mobile home site, plus one (1) space for each mobile home park employee.
Multiple-family dwellings	One and a half (1.5) spaces for each dwelling unit.
Single- and two-family dwellings	Two (2) spaces for each family dwelling unit. Includes approach to garage on-site and stalls in garage.
Accessory dwelling unit	One (1) space per dwelling unit.
<b>Educational, Government, Institutional, Civic Assembly</b>	
Public buildings	One (1) space for each two hundred and fifty (250) sq. ft. of gross floor area used by the public, and one (1) space for each six hundred (600) sq. ft. of gross floor area not used by the public.
Religious institutions and houses of worship	0.25 times maximum seating capacity.
Theatre, Auditoriums, Spectator/ Sports Arenas, studio (aerobics, dance, yoga, karate)	0.25 times maximum seating capacity or occupancy.
Educational and community centers	One (1) space per one-thousand (1,000) sq ft plus one (1) per classroom.
Hospital	Three (3) spaces per bed.
Outdoor recreation field	Six (6) spaces per one-thousand (1,000) sq ft.
<b>Auto-Oriented Commercial and related uses</b>	
Automobile rental, short-term	1.25 spaces per rental vehicle.
Car/Truck wash	Four (4) per premises and one (1) per stall over five (5) stalls.
Automobile service and repair garages; gasoline filling and service stations; vehicle wrecking, towing and storage	Two and a half (2.5) spaces for each repair and service stall, plus one (1) space for every employee.
Vehicle sales and lease	Three (3) spaces per one-thousand (1,000) gross sq ft.

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**Table 5-1  
Page 2**

<b>Parking Standards -- Minimum number of parking spaces per unit of measure and per use</b>	
<b>Auto-Oriented Commercial and related uses, continued</b>	
Drive-through restaurants or fast-food establishments	One (1) space per sixty (60) sq. ft. of eating area, plus one (1) space for each employee on the largest working shift.
Food service establishments that are carry-out or walk-up only, exterior seating only.	One (1) space for each employee, plus four (4) spaces.
Convenience store	One (1) space for each one-hundred fifty (150) sq. ft. of usable floor area.
<b>Commercial and related uses</b>	
Other business service establishments such as advertising, mailing, banking, employment, investment, real estate offices.	One (1) space for every three hundred (300) sq. ft. of usable floor area.
Contractor/building services.	One (1) space for every three hundred (300) sq. ft. of usable floor area.
Funeral/mortuary.	One-quarter (0.25) space per occupancy.
Food service establishments with sale and consumption of food and beverages on premises, including drive-in but not drive-thru.	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for each two (2) persons allowed within the maximum occupancy load as established by the local fire marshal.
Retail, General; except otherwise specified herein	Two and a half (2.5) spaces for every one-thousand (1,000) sq. ft. of usable floor area.
Retail, Outdoor nursery or garden center	Three-quarter (0.75) spaces for every one-thousand (1,000) sq. ft. of usable sales area.
Live/Work unit.	Two (2) spaces per unit.
Outdoor seating	One-quarter (0.25) space per four (4) occupancy.
Medical or dental office uses.	One (1) space for every two-hundred fifty (250) sq. ft. of usable floor area.
Barber shop, beauty salon, tanning, massage	Two (2) spaces per station.
Health or athletic club	Two and a half (2.5) spaces for every one-thousand (1,000) sq. ft. of usable floor area.
Motels, hotels and auto courts	One (1) space for each sleeping unit, plus, one (1) space for each two (2) employees.
Personal service establishment and veterinary	One (1) space per two hundred fifty (250) sq. ft. of retail sales area, and one (1) space for each four hundred (400) sq. ft. of service area.
Repair services	One (1) space per each two hundred fifty (250) sq. ft. of usable floor area, plus one (1) space for each employee.
Supermarket	One (1) space for each two-hundred fifty (250) sq. ft. of usable floor area.
Taverns, bars	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for every three (3) seats, whichever is greater.
All indoor entertainment facilities	One (1) space for every two hundred and fifty (250) sq. ft. of usable floor area.

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**Table 5-1  
Page 3**

<b>Parking Standards -- Minimum number of parking spaces per unit of measure and per use</b>	
<b>Outdoor Entertainment uses</b>	
Campground	Two (2) 10' x 30' spaces for every campsite.
Golf courses open to the public	Four (4) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Golf driving range	One (1) space for each tee, plus one (1) space for each employee on the largest work shift.
<b>Development</b>	
Planned commercial or shopping center	One (1) space for each two hundred fifty (250) sq. ft. of usable floor area.
<b>Industrial and related uses</b>	
Industrial or manufacturing establishments, testing laboratories, creameries, bottling works, printing and engraving shops, and industrial service establishments.	One space for every two (2) employees for industries working two (2) or more shifts. One space for every three (3) employees for industries working one shift or one space for every 400 sq. ft. of gross floor area, whichever is smaller.
Mini-warehouse (self-service storage facility)	One (1) space per fifteen (15) storage units plus one (1) space per employee.
Research and development establishments	One (1) space per employee on the largest shift.
Wholesale trade establishments and warehouses	Two (2) per employee.
<b>Agriculture and related uses</b>	
Livestock auction, transport, and processing	One (1) space per every four (4) person maximum occupancy.
Ag implements, farm, feed sales and service	One (1) space per every four-hundred (400) sq ft gross floor area.

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**5.5.10 GENERAL STANDARDS FOR OFF-STREET PARKING AREAS**

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All off-street parking, loading, and unloading areas shall be designed, constructed, and maintained in accordance with the following standards and requirements. For the purposes of this section, “parking area” shall mean any area serving as a parking area or a loading and unloading area:

- 5.5.10.1** *Use:* Required parking areas shall be used only for the parking of vehicles, and not for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance except as otherwise provided in this *Ordinance*.
- 5.5.10.2** *Safety:* Each parking area shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles and the access and safety of pedestrians and bicyclists.
- 5.5.10.3** *Ingress and Egress:* Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. See also the general access requirements of Section 5.9. Except for parking areas accessory to single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than twenty-four (24) feet wide for two-way access and at least twelve (12) feet wide for one-way access.
- 5.5.10.4** *Maneuvering Lanes:* Each parking, loading, or unloading space shall be provided with adequate access by means of maneuvering lanes. The width of required maneuvering lanes for parking spaces varies, depending upon the proposed parking pattern as follows and as illustrated in Figure 5-1:
- A) For right angle parking patterns, seventy-five (75) to ninety (90) degrees, the maneuvering lane width shall be a minimum of twenty-four (24) feet.
  - B) For angle parking patterns fifty-four (54) to seventy-four (74) degrees, the maneuvering lane width shall be a minimum of eighteen (18) feet.
  - C) For angle parking patterns thirty (30) to fifty-three (53) degrees, the maneuvering lane width shall be a minimum of sixteen (16) feet.
  - D) For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of twelve (12) feet.
- 5.5.10.5** *Curbs and Vehicle Stops:* All off-street parking lots, access drives and aisles, and other vehicle maneuvering areas shall provide curbs or similar devices to prevent vehicles from overhanging on or into the public right-of-way, sidewalks, walkways, adjacent property, or landscape areas.
- 5.5.10.6** *Surfaces:* Parking areas shall be surfaced with a durable, smooth, and dustless material approved by the Zoning Administrator, such as asphalt, concrete, pavers, aggregate stone or gravel, or appropriately reinforced and constructed permeable surfaces such as permeable pavers or reinforced turf. The calculations for required stormwater management and retention measure may be adjusted for the use of permeable surfaces for paving.
- 5.5.10.7** *Drainage:* Parking areas shall be graded and provided with adequate drainage. Surface drainage may not be directed or permitted to flow from or across the parking area onto the public right-of-way. The required parking area and/or surface shall be maintained and replaced if necessary, as long as the building it serves is occupied or the use is continued.

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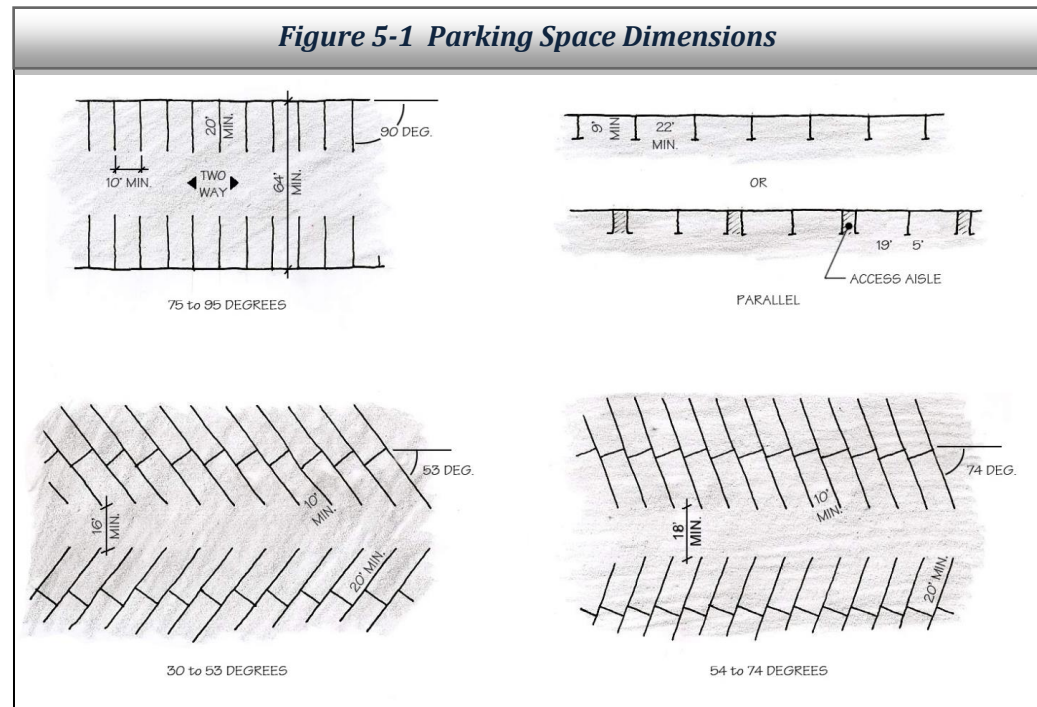
**5.5.10.8** *Lighting:* Except for single-family and two-family residential lots, adequate lighting satisfying the requirements of Section 5.11.3 shall be provided for each parking area.

**5.5.10.9** *Connections:* When safe and feasible, adjoining parking areas of businesses on abutting properties in any District may be connected so that drivers of motor vehicles do not need to enter onto a street or road and then immediately exit in order to go from one establishment to another. The particular design of such connections shall be approved by the Zoning Administrator.

## 5.5.11 PARKING SPACE STANDARDS

**5.5.11.1** *Handicapped:* All parking spaces shall be designed and located consistent with all applicable barrier free and handicapped parking requirements under federal, state, county, and local law.

**5.5.11.2** *Space Delineation:* Each space shall be definitely designated and reserved for parking, loading, or unloading purposes exclusive of space requirements for adequate ingress and egress. Off-street parking areas of three (3) or more spaces and off-street loading areas shall include painted lines, curbs or vehicle stops, or other identifiers to delineate parking and loading areas.



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- 5.5.11.3** *Dimensions:* Parking space dimensions are illustrated in *Figure 5-1*, and vary per parking configuration as below:
- A) Minimum size. Each off-street parking space shall be not less than nine feet (9') wide and eighteen feet (18') long, exclusive of access drives or aisles.
  - B) For parallel parking, minimum stall dimensions are nine (9) foot width and twenty-two (22) foot length, or nine (9) foot width and nineteen (19) foot length with a five (5) foot wide access aisle between every two spaces.
  - C) For 30 to 53 degree angle parking, minimum stall dimensions are ten (10) foot width and twenty (20) foot length with a minimum sixteen (16) foot drive aisle between angled parking areas.
  - D) For 54 to 74 degree angle parking, minimum stall dimensions are ten (10) foot width and twenty (20) foot length with a minimum eighteen (18) foot drive aisle between angled parking areas.
  - E) For 75 to 90 degree angle parking, minimum stall dimensions are ten (10) foot width and twenty (20) foot length with a minimum twenty-four (24) foot two-way drive aisle between parking areas.
- 5.5.11.4** When individual garages are accessed directly from a street, garage doors and all required off-street parking spaces must be located at least twenty (20) feet from the front lot line to prevent obstruction of the sidewalk by parked cars.

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### **5.5.12** **LOADING/UNLOADING SPACE STANDARDS**

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- 5.5.12.1** *Required Space:* In all Districts, for every building or part thereof which is to be occupied by manufacturing, storage, warehouse, goods display, retail store or block of stores over ten thousand (10,000) square feet, wholesale store or warehouse, market, hotel, motel, motor hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution of materials or merchandise by vehicle, there shall be provided and maintained on the same premises with the building off-street loading spaces in relation to floor areas (one per 10,000 square feet of useable floor area or fraction thereof, and one additional loading space for each additional 20,000 square feet of floor area or fraction thereof). If there is more than one principal use on a lot, and the uses can share the loading/unloading space, then the greater of the loading and unloading requirements for one of the permitted uses must be met. Accessible parking spaces required under the Americans with Disabilities Act and parking spaces required under Section 5.5.3 shall not be counted toward the number of loading and unloading spaces required under this section.
- 5.5.12.2** *Dimensions:* Each loading and unloading space required by this section shall not be less than twelve (12) feet in width, fifty (50) feet in length, and fourteen (14) feet in height.
- 5.5.12.3** *Access:* Access to a loading and unloading space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley so as not to interfere with traffic on public streets or off-street parking. Loading/unloading areas and docks shall be prohibited in the front yard or on any building side facing and directly visible from a public street.
- 5.5.12.4** *Design Requirements:* Off-street loading spaces and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. No loading space shall be located closer than fifty (50) feet to any lot in any residential

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District, or fronting educational, recreational, or religious uses, unless wholly within a completely enclosed building or enclosed on all sides by a wall or uniformly painted solid board or masonry fence not less than six (6) feet in height.

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### **5.5.13 PARKING LANDSCAPE STANDARDS**

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This section applies to landscaping for any vehicular use area, which is any area of 1,200 square feet or more of a property which is not located within an enclosed structure and which is devoted to a use by or for motor vehicles, including parking (accessory or non-accessory) or storage of automobiles, trucks or other vehicles; loading areas; service areas and drives. Any paved area designed to be used solely for access between the street and the vehicular use area is not considered part of the vehicular use area.

Vehicular use areas shall have the following landscaping and screening, which shall be continuously planted with living vegetation:

- 5.5.13.1** *Right-of-way screening:* Vehicular use areas that are visible from a public right-of-way shall include one of the following landscape buffers between the vehicular use area and the right-of-way (This section applies to public alleys only when the public alley separates a residential use or zone from a vehicular use area);
- A) Buffer type “E”, including an opaque fence, as described in Section 5.6.5.5.
  - B) Buffer type “D”, with the fence not required, as described in Section 5.6.5.4.
- 5.5.13.2** *Edge landscaping:* When the provision of off-street parking for ten (10) or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area, or areas, in the minimum amount of eighteen (18) square feet for each parking space, which shall be located so that no parking space is more than 60 feet from a portion of the landscaped open space required by this Section. The required open space need not be continuous, but there shall be at least one (1) deciduous tree in each separate area at least twelve (12) feet tall at time of planting. The buffer shall be planted with a minimum of one (1) shade tree and seven (7) shrubs per thirty-five (35) lineal feet of parking frontage. These plantings shall cover a minimum of sixty-five (65) percent of the total distance of any one frontage line. Shrubs may be clustered at intervals instead of spaced evenly. The remaining open space ground plane shall be covered with native seeding, ornamental grasses, or ground cover.
- 5.5.13.3** *Interior landscape areas.* To break up the expanse of pavement and cool parking surfaces, vehicular use areas greater than 3,300 square feet (or of any size with more than two rows of parking) shall contain protected landscape areas located entirely within the edges of the vehicular use area, at the ratio of one (1) square foot of landscape use area per every twenty (20) square feet of vehicular use area. Any landscaped area located outside the edges of the vehicular use area will not count toward satisfying this requirement. There shall be one (1) deciduous tree for each two-hundred fifty (250) square feet of required interior landscaped area. To be credited toward meeting the requirements of this section, each interior landscaped area containing a deciduous tree shall have minimum dimension of eight (8) feet in any direction. If a pedestrian pathway is included as part of a landscape island, the island shall be a minimum of twelve (12) feet wide.



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**SECTION 5.6 GENERAL LANDSCAPING, SCREENING, AND FENCE REGULATIONS**

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**5.6.1 PURPOSE**

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The purpose of this Article is to provide regulations and requirements for landscaping, buffering, and fencing the perimeter of certain activities in order to protect the character of the surrounding area, enhance aesthetics, protect property values, discourage theft, stabilize soils, control windblown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase groundwater infiltration, provide for snow accumulation, and reduce noise.

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**5.6.2 GENERAL LANDSCAPE AND SCREENING STANDARDS**

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**5.6.2.1** *Live materials* are required for all landscaped areas. No artificial trees, shrubs, turf, or plants may be used to fulfill the landscaping requirements of the *Ordinance*. Planting areas must be covered by live ground covers, low growing shrubs, or gravel, tree bark, bark mulch, or similar materials, but not concrete or asphalt paving materials or similar materials.

**5.6.2.2** *Landscape Maintenance*: It shall be the owner's responsibility to see that any landscaping installed as a condition of development approval is maintained in a neat, clean, orderly, and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all vegetation. Drought-resistant plants and shrubs are encouraged.

**5.6.2.3** *Native Plantings*: Planting of landscaping using vegetation native to Gogebic County or edible landscaping is strongly encouraged. Every property owner is encouraged to protect existing native vegetation, especially along roadways, and to plant edible vegetation such as berry bushes whenever possible.

**5.6.2.4** *Existing Vegetation*: Every property owner is encouraged to protect existing native vegetation, especially along roadways. Preservation of existing trees may count toward landscape or buffer requirements of the *Ordinance*. Property owners shall protect established trees not diseased or decayed within setbacks adjacent to public spaces by refraining from compacting the soil during construction or excavation activities, or replacing trees when damage is unavoidable.

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**5.6.3 RIGHT-OF-WAY PROTECTION AND PUBLIC SAFETY**

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In public rights-of-way, landscaping, buffering, and fencing shall be placed and maintained so as not to present a hazard to the public by maintaining clear vision areas as detailed in Section 5.4.5.3.

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**5.6.4 APPLICABILITY**

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When required by this *Ordinance* or by the Planning Commission as a condition to the approval of a Site Plan, Conditional or Special Land Use Permit, Planned Unit Development, or variance, a screening method shall be installed and maintained in continuously good condition, or shall be continuously planted with living vegetation, for the duration of the principal use of property in accordance with the following requirements. Where the *Ordinance* or Planning Commission does not specify which option to use, the applicant shall choose. Where existing vegetation is adequate to achieve the screening requirements of this *Ordinance* as determined by the Planning Commission, it may serve as an option. Necessary drives and access ways from public rights-of-way through required landscape or screening areas shall be permitted.

Each group of uses in the Use Matrix of Table 4-1 is assigned a Land Use Intensity (LUI) code, ranging from I (least intense) to VI (most intense), based on the presupposed impact which they may impose on an adjacent land use. These impacts may be related to noise, vehicular traffic, glare, large bulk or scale, increased stormwater runoff, or large equipment. The LUI is related to appropriate screening methods as presented in Section 5.6.5 and illustrated in Figure 5-2. These methods utilize distance/space, fences, berms, and vegetation to provide buffers between uses. Tables 5-2 and 5-3 present the relationships and requirements for buffers between existing and vacant lands and proposed land uses.

Tables 5-2 and 5-3 present the relationships and requirements for buffers between proposed land uses and existing adjacent uses or vacant land. Where Tables 5-2 and 5-3 present multiple buffer options, the appropriate approval body shall determine which option is most appropriate for the specific proposed use in relation to the specific location and adjacent uses. The user should refer to the regulations in Table 4-1 to determine whether a proposed use is permitted at a particular location or not. Tables 5-2 and 5-3 pertain only to permitted buffer types, and are not meant to indicate permitted uses.

The procedure to determine required buffering or screening requirements between a proposed and existing land use begins with identification of the Land Use Intensity number of the proposed and adjacent existing land uses in Table 4-1, Use Matrix. Use this information to identify the required screening type in Table 5-2.

The procedure to determine required buffering or screening requirements between a proposed land use and adjacent vacant land begins with identification of the Land Use Intensity number of the proposed land use in Table 4-1, Use Matrix. Then the zoning district of the adjacent vacant property should be determined based on the Official Zoning Map. Identify the required screening type in Table 5-3.

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**Table 5-2 Proposed Land Use Intensity in relation to Existing Land Use Intensity**

Proposed Land Use Intensity (LUI) Number vs. Adjacent Land - Existing Land Use Intensity (LUI)						
Proposed Land Use Intensity (LUI) Number	Adjacent Land - Existing Land Use Intensity (LUI)					
	I	II	III	IV	V	VI
I	*	*/D2	*/D2	*/D2	*/C/D2	A/C/D2
II	*/D2	*	*/D2	*/D2/E1	D2/E1	A/C/D1
III	*/C/D1	C/D1	*/C/D2	A/C/D1	A/C/D1	B1/B2
IV	C/D2/E1	C/E1	C/E1	E2	*/D2/E1	A/B1/B2
V	A/C/E1	B2/D1	A/C/D1	D2/E1	E2	A/B1/C
VI	A/B2	B1	B1	B1/B2	B1/B2	A/C

\* No screening required. Where two screening methods are listed, the Zoning Administrator and/or Planning Commission shall make the final determination. Additional landscaping and screening standards are in the district standards and Conditional and Special land use standards.

**Table 5-3 Proposed Land Use Intensity in relation to Zoning District of Adjacent Vacant Land**

Zoning District of Adjacent Vacant Land vs. Proposed Land Use Intensity (LUI) Number								
Proposed Land Use Intensity (LUI) Number	Zoning District of Adjacent Vacant Land							
	CR FR	R-3 R-4	R-1	R-2	M-1	M-2	M-3	I
I	*/E2	*/E2	*/E2	*/E2	*/E2	*/D2	*/E2	*/E2
II	*/E2	*/E2	*/E2	*/E2	*/D2	D2/E2	*/D2	D2
III	*/C	*/C	*/E2	C/D1	*/C/D2	C/D2	C/D2	A/C/D2
IV	C/D2	C/D1	C/D1	C/D1	*/E2	*/D2	D1/C	D2
V	A/C	A/C/D1	C/D1	B2/D1	C/D2	D2/E1	D1/B2	D2
VI	B1/B2	B1/B2	B1/B2	B1/B2	B1/B2	B1/B2	B1/B2	A/C

\* No screening required. Where two screening methods are listed, the Zoning Administrator and/or Planning Commission shall make the final determination. Additional landscaping and screening standards are in the district standards and Conditional and Special land use standards.

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**5.6.5 SCREENING TYPES**

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Buffer strips are generally located along the outer perimeter of a lot extending to the parcel boundary line. They shall not extend into a road or dedicated street right-of-way. Depending on the size of the parcel and terrain conditions, buffer requirements may be modified or combined. In general, buffer strips are intended to be located on the property burdened with the buffer strip requirement. When mixed land uses of varying land intensity codes are combined on one parcel, buffer requirements follow the most intense land use.

**5.6.5.1 BUFFER TYPE 'A' - GREENBELT**

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The greenbelt, as shown in Figure 5-2, consists of a landscaped open space strip running along the property line at least forty (40) feet in width, with the following required landscaping elements:

- A) Nine (9) deciduous trees per one-hundred (100) lineal feet; and
- B) Four (4) evergreen trees per one-hundred (100) lineal feet; and
- C) Native seeding or ground cover on the ground plane.

**5.6.5.2 BUFFER TYPE 'B' - BUFFER STRIP**

---

This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least forty (40) feet in width. Two options are offered within Buffer Type 'B', as follows:

- A) Option B1:
  - (1) Six (6) deciduous trees per one-hundred (100) lineal feet; and
  - (2) Six (6) evergreen trees per one-hundred (100) lineal feet; and
  - (3) Native seeding or ground cover on the ground plane.
  - (4) Fence between six (6) feet tall and twelve (12) feet tall, depending on the intensity of the use to be buffered and at the discretion of the approval body.
- B) Option B2:
  - 1) Six (6) deciduous trees per one-hundred (100) lineal feet; and
  - 2) Six (6) evergreen trees per one-hundred (100) lineal feet; and
  - 3) Turf, native seeding, or ground cover on the ground plane.
  - 4) Berm five (5) feet tall, with maximum slope one (1) vertical foot per three (3) horizontal feet. The width of the berm may be reduced by up to fifty percent (50%) if a retaining wall is used, but the retaining wall must be on the side of the berm not facing the nearest property line, with the vegetation in front of the retaining wall (on the side facing the property line).

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### **5.6.5.3 BUFFER TYPE 'C' – BUFFER STRIP**

This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least twenty (20) feet in width, with the following required landscaping elements:

- A) Three (3) deciduous trees per one-hundred (100) lineal feet; and
- B) Two (2) evergreen trees per one-hundred (100) lineal feet; and
- C) Nine (9) deciduous shrubs per one-hundred (100) lineal feet; and
- D) Turf, native seeding, or ground cover on the ground plane.
- E) Berm three (3) feet tall, with maximum slope one (1) vertical foot per three (3) horizontal feet. The width of the berm may be reduced by up to fifty percent (50%) if a retaining wall is used, but the retaining wall must be on the side of the berm not facing the nearest property line, with the vegetation in front of the retaining wall (on the side facing the property line).

### **5.6.5.4 BUFFER TYPE 'D' – BUFFER STRIP**

This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least twelve (12) feet in width. Two options are offered within Buffer Type 'D', as follows:

- A) Option D1:
  - 1) Four (4) deciduous trees per one-hundred (100) lineal feet; and
  - 2) One (1) evergreen tree per one-hundred (100) lineal feet; and
  - 3) Six (6) evergreen shrubs per one-hundred (100) lineal feet; and
  - 4) Three (3) deciduous shrubs per one-hundred (100) lineal feet; and
  - 5) Turf, native seeding or ground cover on the ground plane.
  - 6) Fence between six (6) feet tall and twelve (12) feet tall, depending on the intensity of the use to be buffered and at the discretion of the approval body.
- B) Option D2 includes all of the above *except* the fence.

### **5.6.5.5 BUFFER TYPE 'E' – BUFFER STRIP**

This buffer strip, as shown in Figure 5-2, consists of a landscaped strip running along the property line at least eight (8) feet in width. Two options are offered within Buffer Type 'E', as follows:

- A) Option E1:
  - 7) Six (6) deciduous trees per one-hundred (100) lineal feet; and
  - 8) Native seeding or ground cover on the ground plane.

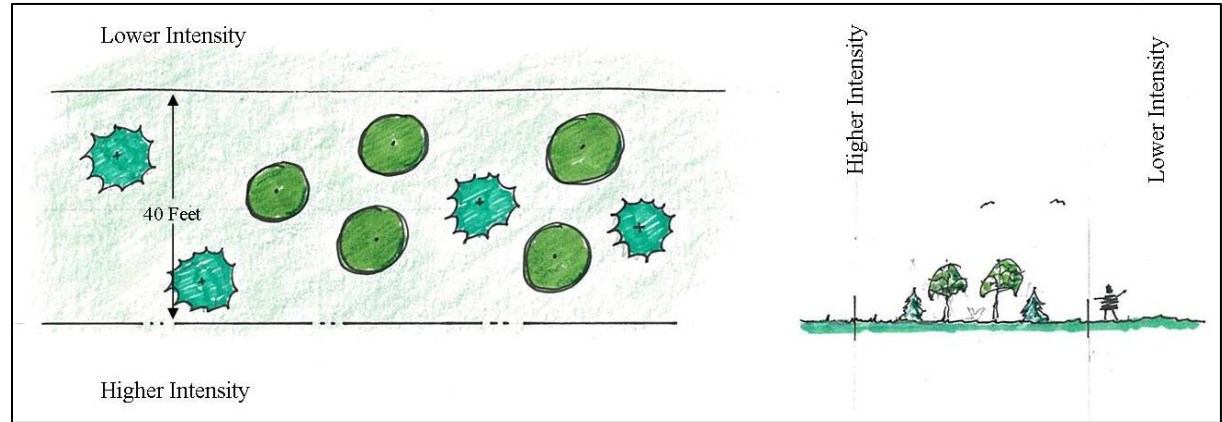
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- 9) Fence four (4) to six (6) feet tall, one-hundred (100) percent opaque, with back side to the higher intensity use.
- B) Option E2 includes all of the above *except* the fence.

**Figure 5-2 Screening/Buffer Types**

**Buffer Type A**

(check Section 5.6.5.1 for number and type of plants)



**Buffer Type B (includes options B1 and B2)**

(check Section 5.6.5.2 for number and type of plants)

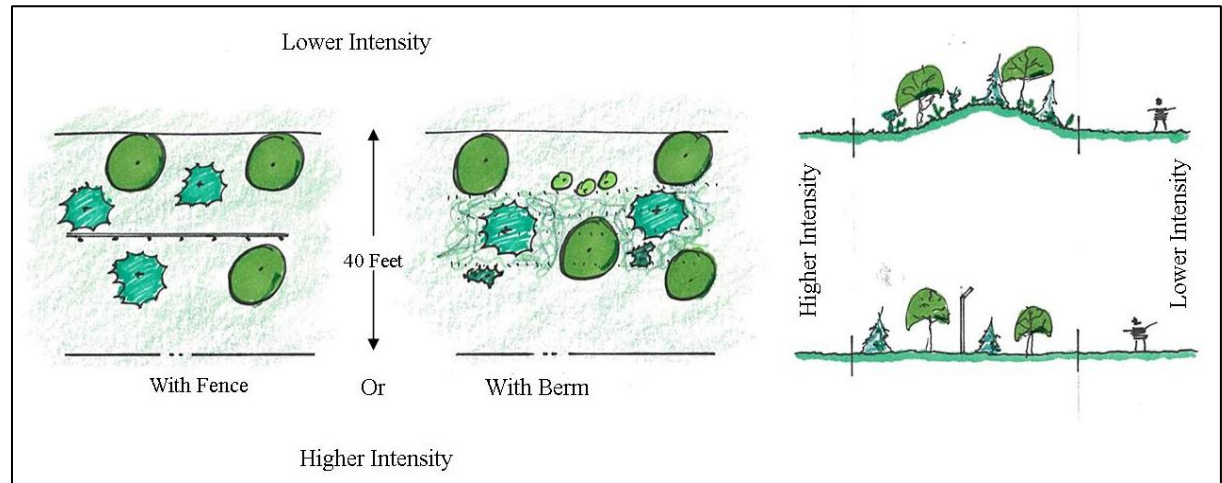
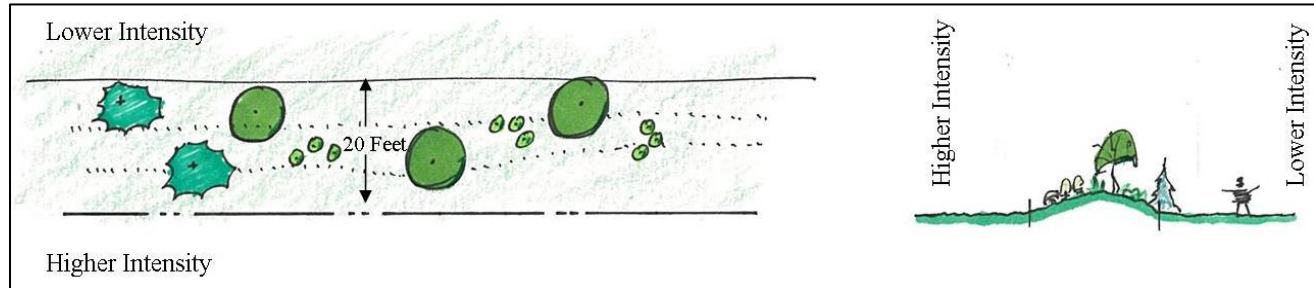


Figure 5-2 Screening/Buffer Types

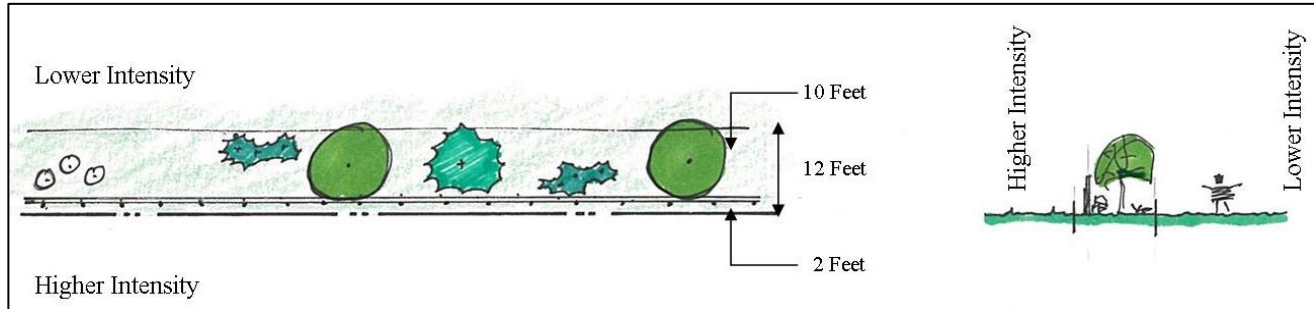
**Buffer Type C**

(check Section 5.6.5.3 for number and type of plants)



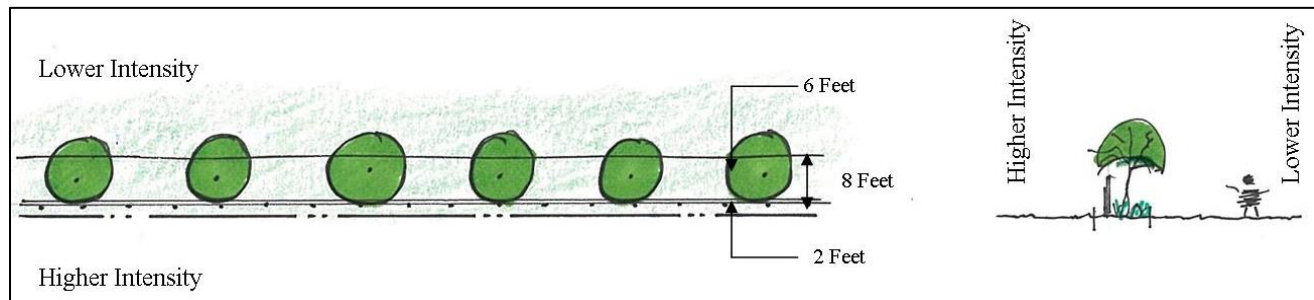
**Buffer Type D (includes options D1 and D2)**

(check Section 5.6.5.4 for number and type of plants)



**Buffer Type E (includes options E1 and E2)**

(check Section 5.6.5.5 for number and type of plants)



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**5.6.6 RECOMMENDED PLANT TYPES, PLACEMENT, AND MAINTENANCE**

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Number of specimens indicated for buffer plantings are minimum quantity and approved species. Species recommended are native and especially appropriate where limited maintenance and cultivation are expected. These recommendations are not meant to exclude cultivars and species generally available from the nursery trade. Species known to be invasive should be avoided. Alternative species shall be as approved by the Zoning Administrator.

**5.6.6.1 SHADE (DECIDUOUS) TREES**

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The following types of shade trees are recommended (cal. Stands for caliper):

- Sugar Maple, *Acer saccharum*, 1½" cal.
- Red Maple, *Acer rubrum*, 1½" cal.
- White birch, *Betula papyrifera*, 1½" cal.
- Ironwood, *Ostrya virginiana*, 1" cal.
- Little Leaf Linden, *Tilia cordata*, 1½" cal.
- Linden, *Tilia Americana*, 1½" cal.
- River Birch, *Betula nigra*, 1" cal.
- Red Oak, *Quercus rubra*, 1½" cal.
- Pin Oak, *Quercus palustris*, 1½" cal.
- Small Tooth Aspen, *Populus tremuloides*, 1½" cal.  
(no more than 10% of total # of shade trees)
- Large Tooth Aspen, *Populus grandidentata*, 1½" cal.  
(no more than 10% of total # of shade trees)
- Northern Hackberry, *Celtis occidentalis*, 1½" cal.

**5.6.6.2 EVERGREEN TREES**

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The following types of evergreen trees are recommended:

- Red Pine, *Pinus resinosa*, 6' tall
- White Pine, *Pinus strobus*, 6' tall
- White Spruce, *Picea glauca*, 6' tall



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### **5.6.6.3 EVERGREEN SHRUBS**

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The following types of evergreen shrubs are recommended:

Common Juniper, *Juniperus communis*, 18" spread  
Canada Yew, *Taxus canadensis*, 12" spread

### **5.6.6.4 DECIDUOUS SHRUBS**

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The following types of deciduous shrubs are recommended:

Witch Hazel, *Hamamelis virginiana*, 18" tall  
Nannyberry, *Viburnum lentago*, 2' tall  
American Hazelnut, *Corylus americana*, 2' tall  
Shrubby Cinquefoil, *Potentilla fruticosa*, 18" tall  
Snowberry, *Symphoricarpos albus*, 1 gal. pot  
Smooth Arrow-wood, *Viburnum dentatum*, 18" tall

### **5.6.6.5 UNDERSTORY TREE**

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The following types of understory trees are recommended:

Balsam Fir, *Abies balsamea*, 4' tall  
White Cedar, *Thuja occidentalis*, 4' tall  
Serviceberry, *Amelanchier arborea*, 3' tall  
Mountain Ash, *Sorbus americana*, 3' tall  
Choke Cherry, *Prunus virginiana*, 3' tall  
Smooth Sumac, *Rhus glabra*, 2' tall  
Staghorn Sumac, *Rhus typhina*, 2' tall  
Alternate-leaved Dogwood, *Cornus alternifolia*, 3' tall

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### 5.6.6.6 GROUND COVER

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The following types of understory trees are recommended:

Sweet Fern, *Comptonia peregrina*, 1 gal. pot  
Bush Honeysuckle, *Diervilla lonicera*, 18" tall  
New Jersey Tea, *Ceanothus americanus*, 4" pot  
Thimbleberry, *Rubus parviflorus*, 1 gal. pot  
Wild Red Raspberry, *Rubus strigosus*, 1 gal. pot  
Solomon-Seal, *Polygonatum biflorum*, 2" pot  
False Solomon's Seal, *Smilacina racemosa*, 2" pot

### 5.6.6.7 NATIVE SEED RATE/MIX

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Apply seed at the rate of 10 pounds of 'pure live seed' per acre. Seed mix to include 50% grass and 50% forbs. Include two or more of the following grasses: sideoats grama, little bluestem, prairie dropseed. Include at least fifteen of the following forbs (Note: not more than 10% of any particular species of forb in the mix) lavender hyssop, nodding pink onion, blue aster, smooth aster, New Jersey tea, Canada milk vetch, lanceleaf coreopsis, white prairie clover, purple prairie clover, shooting star, purple coneflower, prairie blazingstar, wild quinine, smooth penstemon, bee balm, columbine, great solomon's seal, black eyed susan, Ohio goldenrod, showy goldenrod, Ohio spiderwort.

### 5.6.6.8 SIZE AND PLACEMENT OF TREES IN THE PUBLIC SPACE

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These specifications refer specifically to vegetation in public parks, street right-of-ways, and other public facilities.

- A) All trees shall be not less than one (1) inch caliper, measured at six (6) inches above ground level.
- B) No tree shall be planted closer than two (2) feet from the curb line or the outer line of the sidewalk.
- C) All trees shall be planted in line with each other and at a minimum setback and spacing to conform as follows:
  - (1) Thirty (30) feet setback from intersections
  - (2) Fifteen (15) feet setback from driveways and alleys
  - (3) Ten (10) feet setback from utility poles
  - (4) Twenty-five (25) feet spacing for small trees (height less than thirty feet)
  - (5) Thirty-five (35) feet spacing for medium trees (height from thirty to forty-five feet)
  - (6) Forty (40) feet spacing for large trees (height greater than forth-five feet)
- D) Structural soils shall be installed under impervious surfaces in the tree planting areas at the time of new construction or existing infrastructure replacement or repair.

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**5.6.7 SCREENING OF MECHANICAL EQUIPMENT**

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When located outside of a building, support equipment including air conditioning and heating devices, but not including plumbing or exhaust vents or chimneys, is to be screened to the height of the particular piece of equipment, as follows:

- 5.6.7.1**      *Roof- or Wall-Mounted Equipment:* Shall be screened by architectural features from the view of pedestrians on abutting streets and parcels.
- 5.6.7.2**      *Other Exterior Equipment:* Shall be screened by landscaping, a solid wall, or fencing from the view of pedestrians on abutting streets and parcels. Such equipment is encouraged to be installed on the rear slope of the building. The above requirement does not apply to single-family residential or two-family residential uses.

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**5.6.8 SCREENING OF OUTDOOR STORAGE OF TRASH OR RUBBISH**

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All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence or wall no less than six (6) feet in height to keep from the view of pedestrians on abutting streets and parcels. If a fence is used, view obstructing doors at least six (6) feet in height shall be installed and kept closed except when accessing.

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**5.6.9 FENCES AND WALLS**

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**5.6.6.9 LIVING FENCE**

Shrubs and trees planted for the purpose of creating a living fence shall be planted so that the trunk or main stem of the plant is no closer than three feet (3') from any property line. A living fence is not limited to the height requirements of other fences and no building permit is needed.

**5.6.6.10 CONSTRUCTED FENCE**

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- A)      *Placement:* Fences may be erected along property lines (except living fences as noted above) or within yards, irrespective of the setback requirements of this *Ordinance*.
- B)      *Fence Approval:*
  - 1)      Fences or walls over six (6) feet in height require a building permit. No fence, wall, or structural screen other than plant material shall be erected higher than eight (8) feet except as noted below.
  - 2)      No site plan review is required for a fence which conforms to *Ordinance* standards.

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- 3) The Zoning Administrator may require the removal, reconstruction or repair of any fence, living fence, wall or screen not in good condition. The removal reconstruction or repair can be a condition of any application for approval under this *Ordinance*.

### C) *Fence Standards:*

- 1) Fences in R-1, R-2, R-3, M-1, M-2, and M-3 districts shall not contain barbed wire or chain link fences with sharp wire edges exposed, except as otherwise stated below.
- 2) No fence, wall, planting, or structure shall, within the clear vision area described in Section 5.4.5.3, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley, or driveway.
- 3) In R-1, R-2, M-1, M-2, and M-3 districts, fences located in the front yard or between the front lot line and the building line shall not exceed four (4) feet in height, measured along the average grade of an unbroken run. Except in a clear vision area (as in Section 5.4.5.3), fences in the front yard may be solid for not more than three (3) feet in height. For corner lots, front yard fence requirements shall be followed on all sides adjacent to a roadway.
- 4) In R-1, R-2, M-1, M-2, and M-3 districts, fences located in a required side yard or rear yard shall not exceed six (6) feet in height (except as stated below) measured along the average grade of an unbroken run. Fences in the rear and side yards may be solid, and may extend from the side lot line to the side of the principal structure, but shall not occupy the portion of the front yard in front of the principal structure unless in compliance with (3) above.
- 5) In all districts, a security fence surrounding a public utility, police, or correctional facility may extend to eight feet (8') in height and may contain barbed wire or chain link fences with sharp wire edges and be located within a required side yard, rear yard, or front yard. The barbed wire cannot exceed eighteen (18) inches in height, and must be located on top of and may be in addition to the eight (8) foot height fence. The barbed wire shall slant inwards toward the property or be straight up. Security fences with barbed wire in any other location or surrounding any other use require approval by the Planning Commission.
- 6) No fence shall be constructed or maintained which is charged or connected with an electrical current.
- 7) To allow for snow storage adjacent to alleys, all fences hereafter erected adjacent to an alley shall be set back a minimum of 3 feet from the property line.
- 8) Decorative or ornamental sides of fences or walls shall face the adjoining properties (face the outside).

### D) *Exceptions to Screening and Fencing Standards:*

- 9) Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
- 10) Any fence, landscape screen, wall, or hedge which does not conform to this *Ordinance* and which legally exists at the effective date of this *Ordinance* may be continued and maintained, provided there is no physical change other than necessary maintenance and repair; unless otherwise regulated by this *Ordinance*.

**SECTION 5.7 GENERAL SIGN REGULATIONS**

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This Article, and others as referenced, shall govern and control the erection, placement, alteration, enlarging, moving, operation, and maintenance of all signs by permitted uses within all zoning districts established within this *Ordinance*. Regulations apply to all signs that are visible from the public right-of-way, public facilities, trails open to the public, and navigable waterways. Nothing herein contained shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances and/or applicable regulations shall comply with all such ordinances and regulations. The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes. Administrative review procedures have been established as the minimum necessary to enforce applicable standards and to balance the community’s objectives and regulatory requirements with the reasonable advertising and wayfinding needs of businesses.

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**5.7.1 STATEMENT OF PURPOSE**

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It is acknowledged that, depending on their characteristics and context, signs may impact visual quality, affect safety of vehicular traffic, and define community image. It is the intent of this Section to regulate signs in Bessemer Township so as to protect and enhance public health, safety and welfare while preserving the right of free speech and expression. This is accomplished by regulating the size, placement, relationships, construction, illumination, and other aspects of signs in the Township. It is determined that such regulation is necessary for the following reasons:

- 5.7.1.1** To enable the public to locate goods, services, and facilities without difficulty and confusion.
- 5.7.1.2** To prevent dangerous competition for attention between advertising signs and traffic control signs and signals.
- 5.7.1.3** To prevent signs which are potentially dangerous to the public due to structural deficiencies or disrepair.
- 5.7.1.4** To assure the continued attractiveness of the community by showing special concern for the value of its cultural and natural features such as scenic views, landscapes, architecture, and the night sky.
- 5.7.1.5** To protect public/private investments in property through the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with surrounding buildings and landscape.
- 5.7.1.6** To enhance economic vitality and support business development through a collective representation of quality.
- 5.7.1.7** To reduce visual clutter and distracting demands for attention through reasonable standards.
- 5.7.1.8** To provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.
- 5.7.1.9** To assure equitable representation and distribution of sign opportunity.

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**5.7.2 GUIDE TO REGULATIONS**

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General sign regulations are contained within this Article. Regulations that are specific to a particular zoning district are contained within the relevant section of Article 6.

**5.7.2.1 RELATIONSHIP TO OTHER REGULATIONS**

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Whenever regulations or restrictions imposed by this *Ordinance* are either more or less restrictive than those imposed by any governmental authority, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this *Ordinance*, no sign shall be erected or maintained in violation of any state or federal law or regulation.

**5.7.2.2 APPLICABILITY**

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It shall be unlawful for any person to erect, relocate, or structurally alter or repair any sign or other advertising structure within Bessemer Township, as defined by this *Ordinance*, without first obtaining a Certificate of Zoning Compliance. All signs shall be subject to the Building Code and the provisions of this *Ordinance*, and all illuminated signs shall be subject to the provisions of the *Michigan Electrical Code*. See Section 5.7.2.4, Section 5.7.2.5 for signs exempt from regulation, and Section 5.7.6.5 for maintenance exceptions which do not require a Certification of Zoning Compliance.

**5.7.2.3 NONCOMMERCIAL SIGNS AND MESSAGES**

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Any sign that can be displayed under the provisions of this *Ordinance* may contain a non-commercial message. The owner of any sign which is otherwise allowed by this *Ordinance* may substitute noncommercial copy in lieu of any other copy without additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any noncommercial message over any other noncommercial message.

**5.7.2.4 SIGNS EXEMPT FROM REGULATION**

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The following signs are exempt from the regulations contained in this *Ordinance*, and do not require a Certificate of Zoning Compliance. Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

- A) Any public purpose/safety sign and any other notice or warning required by a valid and applicable federal, state, or local law, regulation, or resolution.

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- B) Signs for public demonstrations or promotion of civic welfare or charitable purposes, on which there is no commercial advertising, providing the jurisdiction is held harmless for any damage resulting therefrom.
- C) Religious and other holiday lights and decorations containing no commercial message, and displayed only during the appropriate time of the year.
- D) Works of art that do not include a commercial message, except wall murals.

### **5.7.2.5 SIGNS NOT REQUIRING CERTIFICATES OF ZONING COMPLIANCE BUT SUBJECT TO REGULATION**

Certificates of Zoning Compliance shall not be required for the following signs, provided that said signs meet all other requirements of this *Ordinance*. Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

- A) *Address signs (911 and driveway)*: Two 911 or driveway address signs per parcel, not illuminated, and not exceeding two (2) square feet per sign.
- B) *Small Residential Identification Sign / Home Occupation*: One (1) under-canopy, freestanding ground, projecting, or wall sign per parcel, not illuminated, and not exceeding four (4) square feet in area. No more than one (1) such sign shall be allowed per parcel.
- C) *Identification signs for a commercial district or recognized residential neighborhood*: One (1) such identification sign is permitted for each street entrance, provided the sign shall not extend into any public right-of-way. Total sign area shall not exceed twenty (20) square feet and the sign shall not exceed eight (8) feet above the uniform finished grade, unless the placement of the sign is below the grade of the road from which access is taken, in which case it shall not be more than eight (8) feet above the grade of the road.
- D) *Inconspicuous signs* which are not legible by a person of ordinary eyesight from any distance off the zoning lot for which it is approved, or from a public right-of-way. If the lettering from any drop boxes, ATMs, vending machines, newspaper dispenser, gasoline pump, or similar device is legible by a person of ordinary eyesight from any distance off the zoning lot for which it is approved, those graphic elements shall count toward total signage area allowed on the zone lot, as calculated in Section 5.7.4.
- E) *Vehicle mounted signs* with a permanent message, such as a sign indicating the name of the owner or business, displayed on trucks, buses, trailers, or other vehicles which are being operated or stored in the normal course of a business, provided the primary purpose of the vehicle is not for the display of signs.
- F) *Commemorative Signs*: Signs in the nature of cornerstones, commemorative plaques, and historical signs which are limited to not more than two (2) per lot; not more than sixteen (16) square feet per sign; and may be illuminated only from a downcast, concealed light source which does not flash, blink, or fluctuate and shall not be animated.
- G) Signs that consist of religious symbols, identification emblems, or organizational insignia provided this subject matter relates exclusively to the premises on which they are located. These signs shall not exceed sixteen (16) square feet. Illumination must be downcast and screened from all adjacent residences. Only one such sign is allowed per street frontage.
- H) *Governmental Flags*: These flags must be flown in accordance with established protocol. No flag shall exceed fifty-six (56) square feet. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such. Any number of

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official governmental unit flags may be located on any site. Only one corporate flag or pennant may be displayed. Flagpoles shall not exceed the allowable building height in the applicable context district in which the flagpole is located, but in no case shall the height of the flagpole exceed a height of thirty-five (35) feet.

- I) *Entrance or Directional Signs:* On-premise signs of a non-advertising, non-identification nature designed exclusively to control access or use, to warn or to direct traffic or pedestrians. Only one (1) entrance/exit directional sign is allowed per legal driveway, and it may not exceed four (4) square feet in area.
- J) *Warning and Informational:* Signs such as danger, no trespassing, no dumping, dangerous animal, and on-premise informational signs provided they do not exceed two (2) square feet in area per sign and are spaced at least two hundred (200) feet from one another, except hazards which may be located as needed to protect the public safety and welfare.
- K) *Trail Signs:* Signs on public hiking, biking, snowshoeing, skiing, and snowmobile trails identifying the trail, providing direction and/or identifying the availability of products, services, or businesses ahead, provided that all such signs are made of materials and erected per the requirements of the entity responsible for trail maintenance and operations, and provided all product, services, and business signs are posted not less than two-hundred (200) feet from the intersection of a public road or public right-of-way, the message is not visible from the right-of-way, and the sign area of each sign is not more than two (2) square feet. Signs for multiple entities may be combined into one panel not to exceed sixteen (16) square feet per location.
- L) *Time/temperature signs:* Variable electronic signs displaying only the time or temperature, provided that the light sources shall not exceed fifteen (15) watts and that each message shall not change more often than once every five (5) seconds.

### **5.7.2.6 TEMPORARY SIGNS NOT REQUIRING CERTIFICATES OF ZONING COMPLIANCE BUT SUBJECT TO REGULATION**

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- A) *Temporary freestanding signs* shall be limited to ground signs.
- B) *Temporary yard, garage, or rummage sale signs:* Not more than one (1) sign allowed per parcel, not to exceed four (4) square feet in area, to be erected not more than three (3) days prior to the event and removed immediately after completion of the event. Directional signs not to exceed two (2) square feet in area, but not placed in the public right-of-way or on public property, and removed immediately after completion of the event.
- C) *Temporary promotional banners or special events signage* within the public right-of-way or in the air space over a public right-of-way shall be allowed only with the public property owner's permission. No temporary promotional banner shall exceed thirty-two (32) square feet. Only one (1) promotional banner is allowed per building front, securely attached to the principal structure. Banners or promotional signage may be erected not sooner than three (3) weeks before the event and must be removed not later than seven (7) days after an event.
- D) *Temporary real estate signs* are permitted at no more than one (1) real estate sign per street frontage which advertises the sale, rental, lease of the premise upon which the sign is located. The sign shall not exceed six (6) square feet for a single-family residence or duplex, or thirty-two (32) square feet for all other uses. There shall be no illumination or animation. Signs for a single property shall be removed within thirty (30) days of the sale or rental.



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- E) *Temporary signs advertising multiple lots for sale* (subdivision) may be erected and maintained until ninety (90) percent of the lots are sold. The sign shall not be erected within one hundred (100) feet of an occupied residence.
- F) *Temporary political and campaign signs* on behalf of candidates for public office or measures on election ballots may be erected up to forty five (45) days prior to the primary election and shall be removed within five (5) days following said election. There shall be no limit in the number of such signs on each site with the consent of the property owner. No such signs shall be located in the public right-of-way without permission of the public property owner.
  - 1) Political signs within residential areas may include wall signs, window signs, and freestanding ground signs not more than six (6) square feet, and not illuminated or animated.
  - 2) All other political signs erected in all other areas shall not exceed sixteen (16) square feet, and not be illuminated or animated.
- G) *Temporary signs identifying construction sites* for which a building permit has been issued shall be removed within five (5) days after the occupancy of the structure. One (1) sign per premises shall be permitted not to exceed six (6) square feet for single-family and two-family structures or thirty-two (32) square feet for all other structures.
- H) *Temporary signs identifying home improvement activities* for which no permit is required. One (1) on-premise sign per premises not to exceed six (6) square feet, which may be in place while the work is in progress. In no case shall such sign be in place for more than thirty (30) days.
- I) *A portable, moveable sign* may be erected for a fourteen (14) day period at the opening of a new business or to identify a construction site. At no time shall flashing lights be used on portable signs.

### **5.7.2.7 PROHIBITED SIGNS**

The following signs are prohibited in the Township:

- A) Any sign installed prior to the effective date of the *Ordinance* without a Certificate of Zoning Compliance or permit.
- B) Any sign unlawfully installed, erected, or maintained after the effective date of this *Ordinance*.
- C) Abandoned or dangerous signs.
- D) Signs that obstruct free ingress or egress from a required door, window, fire escape, or other required exit.
- E) Privately-owned signs and associated support structures located on trees, utility poles, public benches, or any other form of public property or within any public right-of-way unless explicitly permitted by this *Ordinance*. This includes the air space above publicly-owned property or right-of-way.
- F) No sign shall be located at the intersection of any street, or in driveways, parking lots, or loading areas in such a manner as to obstruct free and clear vision.
- G) No sign shall simulate or be confused with the lighting of emergency vehicles or traffic signs, nor shall make use of the words “Stop”, “Look”, “Danger”, or any other words, phrases, symbols, or characters that interfere with, mislead, or confuse traffic.
- H) Painted signs on the face of a structure or natural feature such as trees, rocks, shrubs, fences, etc, except for approved murals per Section 5.7.5.8.

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- I) Signs illuminated by other than electrical means.
- J) Off-premise commercial advertising signs or graphics (signs which advertise a business which is not conducted at the place where the sign is erected), including portable signs, reader boards, or signs carried by people or incorporated into a costume. Does not include temporary, off-premise signs pertaining to promotional or special events as provided for in Section 5.7.2.6.
- K) Portable or moveable signs with the exception of sidewalk signs (Section 5.7.5.7) and temporary signs (Section 5.7.2.6).
- L) Roof signs.
- M) Animated, flashing, blinking, fluctuating, rotating signs and festoons or any element having the appearance of moving or animated or moving parts as defined in Article 15; inflatable signs, tethered balloons, banners, pennants, streamers, searchlights, exposed light bulbs, and any clearly similar features, except those specifically exempt from regulation in this Section; special event signs or banners permitted in Sections 5.7.2.6, or electronic message centers as permitted Section 5.7.5.2.
- N) Signs in or on a vehicle when the vehicle is placed in a location not normally expected for such vehicles, and the location has the apparent primary purpose of attracting attention or providing advertising in addition to that permitted for legal signs on the site.
- O) Merchandise, equipment, products, vehicles, or other items which are not available for purchase, but are intended to attract attention, or for identification or advertising purposes.
- P) Other signs or attention getting devices that raise concerns substantially similar to those listed above, or any sign not expressly permitted.

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### **5.7.3 REGULATIONS APPLICABLE TO ALL SIGNS**

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- 5.7.3.1** Signs shall be structurally sound and designed in compliance with all applicable building and electrical codes.
- 5.7.3.2** Signs shall be located so as to pose no reasonable threat to safe vehicular and pedestrian circulation or public safety signals and signs. Except for necessary traffic signs, all signs will be located outside the clear vision area as described in Section 5.4.5.3. Specific examples include:
  - A) No sign shall obstruct the vision of drivers at any driveway, parking lot, or other route providing access to any land use.
  - B) No signs shall be located on any street, intersection, or street corner which would obscure the vision of drivers and pedestrians using said streets, or conflict with traffic control signs or signals in any location.
  - C) A sign, other than a traffic sign installed by a governmental entity, shall not simulate or imitate the size, lettering, or design of any traffic sign in such manner as to interfere, mislead, or confuse the public.
- 5.7.3.3** No signs shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a means of egress.
- 5.7.3.4** If possible, signs should not be in locations that obscure architectural features such as pilasters, arches, windows, cornices, etc.
- 5.7.3.5** No sign shall be placed in a drainage, utility, or other easement without first obtaining all applicable authorizations.

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- 5.7.3.6** Swinging signs shall be permitted only as under-canopy signs designed to a pedestrian scale and on swinging-style sidewalk signs.
- 5.7.3.7** Illuminated signs as permitted in the zoning districts are subject to these standards:
- A) The brightness and intensity shall not be greater than necessary to meet reasonable needs of the business or use served; and
  - B) Light sources shall be shielded from all adjacent buildings and streets; and
  - C) The lighting shall not create excessive glare to pedestrians and/or motorists, and will not obstruct traffic control or any other public informational signs.
  - D) All property owners are encouraged to turn off all unnecessary lighting after hours.
- 5.7.3.8** No sign shall have exposed electrical wires, and electrical service to signs shall be concealed wherever possible to preserve aesthetic values.
- 5.7.3.9** Cutting or killing vegetation growing on public rights-of-way (or below the ordinary high water mark of navigable streams) to enhance visibility of a sign is prohibited.
- 5.7.3.10** No signs shall be located in wetlands except governmental signs, warning signs, or signs that interpret natural, historical, or cultural features.

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### **5.7.4 MEASUREMENT STANDARDS**

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#### **5.7.4.1 DETERMINING SIGN AREA AND DIMENSIONS**

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- A) For a wall sign which is framed or has a background for the sign display, the area and dimensions shall include the entire portion within the background or frame.
- B) For a wall sign comprised of individual letters, figures or elements on a wall of a building or structure, the area and dimensions of the sign shall encompass a regular geometric shape or a combination of regular geometric shapes, which form or approximate the perimeter of all elements in the display, the frame and any applied background that is not part of the architecture of the building. This ensures that “air space” or “background wall” is generally not included in area measurements so that uniquely shaped sign elements do not constitute a penalty and so that architectural components of historic buildings are not obscured. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas as above, but including the space between different elements. Minor appendages to a particular regular shape, as determined by the Zoning Administrator, shall not be included in the total area of a sign.
- C) For a Freestanding sign, the sign area shall include the frame (if any) but shall not include:
  - (1) A pole or other structural support unless such pole or structural support is internally illuminated or otherwise designed to constitute a display device or a part of a display device.

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- (2) Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.
- D) When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces. When a sign has more than two display surfaces, the sign area is the area of the largest display surface that is visible from any single direction.
- E) In the event of a dispute in calculating the area or dimensions of any sign, a negative decision of the Zoning Administrator may be appealed by formal submission of an application to the Planning Commission for review.

### **5.7.4.2 DETERMINING SIGN HEIGHT**

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- A) The height of a freestanding sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the highest point of the sign. A freestanding sign on a man-made base, including a graded earth mound, or that is located in a depression below the adjacent street grade, shall be measured from the grade of the nearest pavement to the highest point of the sign.
- B) Vertical clearance shall be measured as the smallest distance between the finished grade and the lowest point of the sign, including any framework or other embellishments.

### **5.7.4.3 DETERMINING BUILDING FRONTAGES AND FRONTAGE LENGTHS**

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- A) The building unit is equivalent to the tenant space. The frontage of the tenant space on the first floor shall be the basis for determining the permissible sign area for wall signs.
- B) The frontage of any building unit shall include the elevation(s) facing a public street, facing a primary parking area for the building or tenants, or containing the public entrance(s) to the building or building units.
  - (1) The primary frontage shall be considered the portion of any frontage containing the primary public entrance(s) to the building or building units.
  - (2) The secondary frontage shall include those frontages containing secondary public entrances to the building or building units, and all building walls facing a public street or primary parking area that are not designated as the primary building frontage by subsection (1) above.
- C) The length of any primary or secondary building frontage shall be the sum of all wall lengths parallel, or nearly parallel, to such frontage, excluding any such wall length determined by the Zoning Administrator as clearly unrelated to the frontage criteria.
- D) For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated separately for each such building frontage.
- E) The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

**5.7.5 REGULATIONS BASED ON SIGN TYPE**

Table 5-4 illustrates which sign types are permitted per zoning district.

**Table 5-4 Permitted Sign Types**

District	R-1	R-2	R-3	R-4	M-1	M-2	M-3	I	CR	FR
Canopy & Marquee Sign	*				*	*	*	*		
Electronic Message / Changeable Copy Sign						*	*	*		
Freestanding Sign	*	*	*	*	*	*	*	*	*	*
Illuminated Signs	*	*	*	*	*	*	*	*	*	*
Projecting Sign	*	*	*	*	*	*	*	*	*	*
Sidewalk Sign					*		*			
Wall Murals	*		*	*	*	*	*	*	*	*
Wall Sign	*	*	*	*	*	*	*	*	*	*
Window Signs	*	*	*	*	*	*	*	*	*	*

**5.7.5.1 CANOPY AND MARQUEE SIGNS**

- A) Canopy or marquee signs shall not be placed less than eight (8) feet above the sidewalk.
- B) Canopy and marquee signs shall not be located closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.
- C) Signs that are attached to the face of a marquee or canopy and are parallel to the flow of traffic shall meet the requirements of wall signs. Signs that are attached to the sides of a marquee or canopy and are not parallel to the flow of traffic shall meet the requirements of projecting signs.
- D) The sign may not project more than six (6) inches from the face of the canopy or marquee.
- E) Sign height shall not exceed (3) feet.
- F) Illuminated Canopy and Marquee signs shall meet the requirements of Illuminated Signs in Section 5.7.5.5 of this *Ordinance*.
- G) A sign may hang from the underside of a canopy, marquee, or porch provided it does not present a hazard to ingress/egress and public safety, and does not exceed the total area requirements for each district. The following conditions shall also apply:
  - (1) Shall not be greater than six (6) square feet.
  - (2) Shall not be more than one (1) such sign per business.

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- (3) Shall be no less than seven (7) feet above the grade or floor.
- (4) Shall not be located closer than two (2) feet to the vertical plane of the face of a street curb or closer than three (3) feet to the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.
- (5) May swing provided that the distance between the top of the sign and the underside of the canopy, marquee, or porch is not greater than four (4) inches.

### **5.7.5.2 ELECTRONIC MESSAGE/CHANGEABLE COPY SIGNS**

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- A) Changeable copy by non-electronic means may be utilized on any permitted sign.
- B) Signs with changeable copy shall have characters securely attached to the sign face.
- C) Only one (1) electronic message sign is permitted per visible street frontage for each lot in the appropriate zoning districts.
- D) Electronic message signs are permitted in specific zoning districts as listed in Table 5-4.
- E) The copy on electronic message signs shall not change more than once every five (5) seconds.
- F) The electronic message sign shall not exceed fifty (50) percent of the total sign area permitted on the site.
- G) All electronic message signs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.

### **5.7.5.3 FLEXIBLE SIGNS**

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Signs of fabric, thin plastic, or other flexible material may be erected as freestanding or wall signs provided that all requirements for those types of signs are met in addition to the requirements for flexible signs. The outer perimeter of the flexible sign shall be contained in a frame. No ropes or guy wires may be fastened so as to cause a hazard. Flexible signs shall be removed at the first evidence of wear or deterioration.

### **5.7.5.4 FREESTANDING SIGNS**

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- A) All permanent freestanding signs shall have self-supporting structures erected on, or permanently attached to, concrete foundations.
- B) A maximum of one (1) freestanding sign is allowed per interior lot or parcel within the applicable districts. Through lots and lots with multiple street frontages may have one (1) additional sign per street frontage.
- C) The area beneath and around a freestanding sign shall be landscaped with plants, ground cover, and materials so as to complement the site and integrate the sign with buildings, parking areas, surrounding vegetation, and natural features of the landscape. For every two (2) square feet of sign, one (1) square foot of planting or lawn must be provided and maintained at the base of the sign.
- D) The property surrounding any freestanding sign shall be maintained by the property owner in a clean and sanitary condition free from weeds, rubbish, and flammable material.

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- E) Freestanding signs shall be set back in conformity with clear vision triangle requirements as detailed in Section 5.4.5.3 if located near driveways or intersections.
- F) For any freestanding sign that is within ten (10) feet of the curb of a public street, there shall be a minimum unobstructed distance of ten (10) feet between the bottom of any display area and the ground. For every two and a half (2.5) feet the sign is set back from the right-of-way, the base of the display area may be lowered by one (1) foot provided there is enough ground area for the required landscaping.
- G) For every additional ten (10) feet that a sign is set back from the required front yard, the area of the ground sign may be increased by ten (10) percent. The required landscaping at the base of the sign must be adjusted for the increased sign area. This increase in size shall not apply to off-premise signs.
- H) The allowable sign height for freestanding signs shall be as specified in Table 5-5.

**Table 5-5 Height of Freestanding Signs**

Freestanding Sign Height Allowances	Maximum Height (Feet)		
	Ground Only	15'	20'
Mixed-Density Residential Context (R-1)	*		
Medium Density Residential (R-2)	*		
Primary Rural Residential (R-3)	*		
Secondary Rural Residential (R-4)	*		
Conservation Recreation (CR)	*		
Forest Reserve (FR)	*		
Core Mixed-Use (M-1)		*	
Resort Mixed-Use (M-3)		*	
Corridor Mixed-Use (M-2)			*
Industrial (I)			*

\*Depends on the use. See Context District standards for particular applications.

- A) The area of a freestanding sign shall not exceed the maximum square footage shown in Table 5-6.

**Table 5-6 Area of Freestanding Signs**

Freestanding Sign Area Allowances	Maximum Area (Square Feet)			
	16	32	40	100
District				
Mixed-Density Residential Context (R-1)	*			
Medium Density Residential (R-2)	*			
Primary Rural Residential (R-3)	*			
Secondary Rural Residential (R-4)	*			
Conservation Recreation (CR)	*			
Forest Reserve (FR)		*		
Core Mixed-Use (M-1)			*	
Resort Mixed-Use (M-3)			*	
Corridor Mixed-Use (M-2)				*
Industrial (I)				*

\*Depends on the use. See Context District standards for particular applications.

**5.7.5.5 ILLUMINATED SIGNS**

In order to reduce glare and the general overwash of light to public rights-of-way and residential uses, and to promote the protection of the dark sky, all illuminated signs shall be designed and constructed to meet or exceed the following standards.

- A) Flashing, rotating, and intermittent lighting and exposed bulbs are prohibited, except time and temperature signs and electronic message centers as regulated in Section 5.7.5.2.
- B) Internally illuminated signs are required to have a dark face or opaque background. Only the message shall be lit, not the entire sign. Internally illuminated signs shall have back-lighted individual letters or objects softly silhouetted against the background from a diffused light source inside each letter or object.
- C) External illumination must be downcast, directed only to the face of the sign, and screened from all adjacent residences. No sign lighting shall project beyond the building premises. No exposed bulbs or unshielded flood lamps are permitted. Illumination will also be arranged so as not to adversely affect driver visibility on adjacent thoroughfares.
- D) With the exception of directional and “no vacancy” signs, no sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. unless the premises are open for business.



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### **5.7.5.6 PROJECTING SIGNS**

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- A) No portion of a projecting sign shall be less than eight (8) feet or greater than fourteen (14) feet above grade as measured as the vertical distance between the bottom of the sign or support structures and the grade or floor immediately below the sign.
- B) No sign shall be located closer than ten (10) feet to any intersecting rights-of-ways.
- C) The sign shall be located no closer than two (2) feet to the vertical plane of the face of a street curb, or no closer than three (3) feet to the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.
- D) Projecting signs shall be spaced at least fifteen (15) feet apart.
- E) A sign shall not project more than eight (8) feet from any structure.
- F) A projecting sign shall not exceed eight (8) square feet.
- G) No sign may project over an alley or private access lane.
- H) All projecting signs shall be designed, installed, and erected in such a manner that there shall be no visible angle iron or wire support structures above the roof line or parapet.

### **5.7.5.7 SIDEWALK SIGNS**

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- A) Sidewalk signs shall be permitted in the applicable zoning district during the hours a business is open to the public, but in no instance may a sign be placed on the street earlier than 8:00 a.m. nor later than 9:00 p.m.
- B) Sidewalk signs shall be of A-frame or swinging-style construction that shall be sturdy, stable, and of heavy enough construction on its own to withstand typical winds without flipping over or sliding.
- C) A sidewalk sign shall have no moving parts, including wheels.
- D) The maximum height shall be four (4) feet and the sign shall not occupy more than nine (9) square feet of sidewalk. The base of the sign shall not exceed thirty-six (36) inches wide. The required dimensions shall include the support structure and shall be measured along the widest or highest section of the sign.
- E) The surfaces of sidewalk signs shall be durable and weather-resistant. Loose paper faces, cardboard, paper, fabric, and non-rigid material shall not be permitted.
- F) Sidewalk signs shall not be illuminated by any means except natural light and existing street lights.
- G) At all times of the year, sidewalk signs shall be placed directly in front of the business holding the permit for the sign, a minimum of two (2) feet away from the vertical plane of the face of a street curb, or three (3) feet away from the edge of the street (if there is no curb) or parking lot as determined by the Zoning Administrator.
- H) The sign placement shall allow a minimum of five (5) feet of unobstructed sidewalk for pedestrians.
- I) Sidewalk signs shall not be placed within twenty (20) feet of an intersection.
- J) During the winter months, the sidewalk shall be completely clear of snow prior to placement and sidewalk signs shall not be placed on snow banks.
- K) A sidewalk sign shall not obstruct the clear vision area as described in Section 5.4.5.3, vehicular/bus stops, benches, fire hydrants, or other features legally located in the right-of-way.

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- L) The owner of the sign and the owner of the site upon which it is located must sign a statement assuming all liability for damage and injury caused by the sign.
- M) Sidewalk signs shall be exempt from the total sign area calculation.
- N) There shall be one sidewalk sign allowed for each tenant provided that all of the requirements of this section are met.

### **5.7.5.8 WALL MURALS**

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- A) Prior to painting or affixing a mural to the building, the surface of the building must be fully repaired and/or deemed suitable for the proposed mural. The Building Inspector or other authorized agent shall check the surface for general suitability. However, the Township and/or its authorized agents shall not be responsible for any potential failures associated with the structure or mural.
- B) A sealer shall be applied to the surface of the mural to extend the life of the mural and make it easier to clean and maintain.

### **5.7.5.9 WALL SIGNS**

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- A) No wall sign shall cover, wholly or partially, any wall opening nor shall any sign project beyond the ends or top of the wall to which it is attached.
- B) Sign position will avoid obscuring architectural ornament and detail.
- C) A wall sign shall not project more than twelve (12) inches from the wall.
- D) Wall sign area is counted toward the total area requirements, however, the minimum sign area for each tenant, including those without outside frontage, shall not be less than two (2) square feet.
- E) For any commercial or mixed-use building containing more than one tenant, a directory sign containing the names of all tenants may be located at each common public entrance to the building, not to exceed a maximum size of twenty (20) square feet for each directory. Directory and restaurant menu signs not exceeding two (2) square feet need not be included in the sign area calculations.
- F) Each tenant may have multiple wall signs as long as the total wall sign area does not exceed the allowances established for wall signs for that tenant space or use (not including building directories and menu boards as above).
- G) Additional wall sign area is permitted for a secondary frontage which shall be equal to one-hundred (100) percent of the primary sign area allowance.
- H) Fifteen (15) square feet of bonus area is permitted on each of the building's primary and secondary frontages for a building with two (2) or more floors. The bonus sign must be placed at the height for which the bonus has been granted.
- I) No wall sign shall have a length greater than eighty (80) percent of the length of the tenant space, or for single tenant buildings, the length of the building frontage.

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**Table 5-7 Total Combined Sign Area Allowance**

Total Combined Sign Allowances (also applies to one wall sign)	Maximum Square Feet of sign area per lineal foot of building/tenant frontage				
	District	1.5	2	2.5	3
Medium Density Residential (R-2)	*				
Primary Rural Residential (R-3)	*				
Secondary Rural Residential (R-4)	*				
Conservation Recreation (CR)	*				
Mixed-Density Residential Context (R-1)			*		
Forest Reserve (FR)			*		
Core Mixed-Use (M-1)				*	
Resort Mixed-Use (M-3)				*	
Corridor Mixed-Use (M-2)					*
Industrial (I)					*

\* Depends on the use. See Context District standards for particular applications.

**5.7.5.10 WINDOW SIGNS**

- A) Window signs shall not exceed twenty-five (25) percent of the area of a window, except when the window is covered by a single mural or photo, and in that case, the display shall not exceed seventy-five (75) percent of the window area.
- B) Window signs shall be counted in the total allowable sign area calculation.
- C) Business hours, open/closed signs, and other similar information are exempt from the total allowable window sign square footage calculation.

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**5.7.6 SIGN ADMINISTRATION**

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**5.7.6.1 NONCONFORMING SIGNS**

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Non-conforming signs are those which do not comply with size, placement, construction, or other provisions or regulations of this *Ordinance*, but which were lawfully established prior to the adoption of this *Ordinance*. It is the intent of this *Ordinance* to discourage the continuance of non-conforming signs and to encourage their removal by whatever lawful means available.

- A) Nonconforming signs shall be maintained in good condition pursuant to Section 5.7.6.5.
- B) A nonconforming sign or sign structure shall be brought into conformity with this *Ordinance* if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this Section. An alternation also does not include maintenance that is intended to keep the nonconforming sign or sign structure in good condition per its original state, such as replacing or repairing worn or damaged parts. However, changes or additions shall not be made to any sign on a site so as to increase the total nonconformity.
- C) Non-conforming signs requiring structural repair to make them safe shall be removed.
- D) On parcels where there is a legal non-conforming sign, no new additional signs shall be erected until all such non-conforming signs are brought into compliance with this *Ordinance*.
- E) Removal of a nonconforming sign, or replacement of a non-conforming sign with a conforming sign is required when:
  - (1) A non-conforming sign, or a substantial part of a non-conforming sign, is blown down, destroyed, or for any reason or by any means taken down, altered, or removed. As used in this section, “substantial” means fifty (50) percent or more of the entire sign structure; or
  - (2) A non-conforming sign, sign structure, or the building to which a non-conforming sign is attached, is destroyed or damaged by a fire, flood, windstorm, or similar abnormal event, and the cost of reconstruction of the street sign or structure or building to its condition immediately prior to the event exceeds fifty (50) percent of the value of the sign, structure, or building prior to its destruction or damage; or
  - (3) The condition of the non-conforming sign or sign structure has deteriorated and the cost of restoration of the sign to its condition immediately prior to such deterioration exceeds fifty (50) percent of the value of the sign or sign structure prior to its deterioration; or
  - (4) The property on which the sign is located has become vacant, or been unoccupied for a period of sixty (60) consecutive days or more.
  - (5) The regulation or amendment to these regulations which made the sign non-conforming has been in effect for ten (10) years or more.
- F) The dates established in this Section for a sign to be brought into compliance with the requirements of these regulations may be extended at the request of the sign owner or leasee. In evaluating the extention of time for a non-conforming sign, the Zoning

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Administrator shall consider the following factors to determine whether the owner of the sign has had reasonable amount of time to recoup the initial investment.

- 1) The value of the sign at the time of construction and the length of time the sign has been in place;
- 2) The life expectancy of the original investment in the sign and its salvage value, if any;
- 3) The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes;
- 4) The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance;
- 5) The extent to which the sign is not in compliance with the requirements of these regulations; and
- 6) The degree to which the Zoning Administrator determines that the sign is consistent with the purposes of these regulations.
- 7) Whether the sign has “historical” or “landmark” significance and should, therefore, be exempt from amortization.

### **5.7.6.2 ABANDONED SIGNS**

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Abandoned signs shall be removed by the property owner within 30 days.

### **5.7.6.3 DANGEROUS SIGNS**

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In the case of a sign which presents imminent danger to life or property the sign owner, or if he cannot be reached, a responsible Township official must take immediate action as necessary to remove the danger. See Section 5.7.6.6.

### **5.7.6.4 PERMITTING PROCEDURES**

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- A) A Certificate of Zoning Compliance shall be obtained from the Zoning Administrator prior to the issuance of a building permit.
- B) Application for a Certificate of Zoning Compliance shall be made upon forms provided by the Zoning Administrator, and shall contain or have attached the following information:
  - 1) Name, address, telephone number, and signature of the applicant (person or firm erecting the sign).
  - 2) Name, address, telephone number and signature of the owner of the land on which the sign is to be erected.
  - 3) A scale drawing indicating:
    - a. An accurate site plan showing the location of each proposed sign, existing signs, property lines, and all buildings and driveways on the parcel. All dimensions are to be included.
    - b. An accurate elevation of each building wall intended to accommodate a sign, including window signs, showing the location, dimensions, and height of each sign above grade level. A computation of the area of each sign on the parcel is to be included.
    - c. An illustration depicting color scheme and items of information proposed to be displayed. Include the percentage of the signable area covered by the proposed graphics.
  - 4) A copy of the plans, specifications, method of construction, and means of attachment to the building or ground, including means of illumination or mechanical movement, if any.

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- 5) Upon demand of the Zoning Administrator, a copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable laws and ordinances.
- 6) Such additional information as required by the Zoning Administrator to show full compliance with this and all other laws and ordinances of the Township.
- C) A Comprehensive Sign Plan (CSP) may be submitted that permits consideration of unique conditions, flexibility, and creativity. Such CSP is subject to approval by the Planning Commission. The application of such plan cannot be viewed as imposing more restrictive requirements than permitted by the basic standards, but rather, may permit additional signs and/or sign area based on the applicant's demonstration of unique characteristics of the design, building, and/or site. A bonus may also apply when the applicant utilizes preferred designs such as a dark face or opaque background for internally-lit signs or amber lighting on message centers.
- D) All sign applications shall be reviewed for compliance with these regulations within twenty (20) business days from the time a completed application has been accepted by the Zoning Administrator.
- E) Reasons for denial of any sign application shall be set forth in writing and shall include any changes which would make the plan acceptable.
- F) The applicant may appeal any denial to the Zoning Board of Appeals.
- G) Each sign requiring a Certificate of Zoning Compliance shall contain a clearly legible identification plate, no larger than fifteen (15) square inches in area, stating the name of the person responsible for its construction and erection, along with the installation date and permit number.

### **5.7.6.5 MAINTENANCE**

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- A) The property owner shall maintain the sign in safe structural condition at all times in accordance with all Township standards and building code requirements. This includes but is not limited to the replacement of defective parts and peeling, faded, or broken display faces and structural members. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or constructed of rust resistant metals. All parts of the signs, including bolts and cables, shall remain painted and free from corrosion.
- B) *Maintenance Requiring no Permit:*
  - 1) The repainting of any portion of a sign structure, or the periodic changing of a bulletin board or billboard panel or the renewing of copy which has been made unacceptable or unusable by ordinary wear shall not require a permit.
  - 2) The replacing or repairing of non-structural portions of a sign shall not require a permit.
- C) *Maintenance Requiring a Permit:*
  - 1) Structural alteration, repair, or replacement of a sign or sign support structures shall require a permit.
  - 2) An enlargement or increase in any of the dimensions of a sign or the sign structure shall require a permit.
- D) The Zoning Administrator shall inspect and may order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. If the sign is deemed by the Zoning Administrator to be in an unsafe condition, the owner of the business shall be immediately notified in writing, and shall,

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within 48 hours of receipt of such notification, respond to the Township with a plan to correct or remove the unsafe condition or cause it to be removed. If after thirty (30) days, the unsafe condition has not been corrected through repair or removal, the Zoning Administrator may cause the repair or removal of such sign at the expense of the property owner or lessee. If the total costs are not paid in full within sixty (60) days of the repairs or removal, the amount owed shall be certified as an assessment against the property of the sign owner, and lien upon that property, together with an additional fifteen (15) percent penalty for collection as prescribed for unpaid real estate taxes.

### **5.7.6.6 SIGN REMOVAL PROCEDURES**

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- A) The Zoning Administrator shall order the removal of any sign for which no Certificate of Zoning Compliance has been issued or signs erected in violation of this *Ordinance*.
- B) The Zoning Administrator shall notify the property owner by first class mail describing the sign and specifying the violation involved.
- C) The property owner shall remove the sign or initiate an appeal within fifteen (15) days of receipt of the letter. An appeal stays all proceedings unless the official from whom the appeal is taken certifies to the Zoning Board of Appeals that a stay would cause imminent peril to life or property.
- D) If at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or appealed the decision of Zoning Administrator, the Zoning Administrator shall carry out the requirements of the notice. The costs of such abatement may be charged against the premises and the owner thereof.
- E) In cases of emergency, the Zoning Administrator may cause the immediate removal of a dangerous or defective sign without notice.

## **SECTION 5.8 GENERAL ESSENTIAL SERVICES, COMMUNICATION, UTILITY, AND PUBLIC INFRASTRUCTURE REGULATIONS**

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The provisions of this *Ordinance* apply to buildings, structures, facilities, and/or uses owned or operated by Bessemer Township. All buildings, structures and/or uses owned or operated by any other local, county, state or federal agency within the Bessemer Township require review and approval of a site plan by the Planning Commission before construction or alteration, except as provided elsewhere in this *Ordinance*, or by State or Federal Law.

### **5.8.1 ESSENTIAL SERVICES, PUBLIC FACILITIES, AND UTILITIES**

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The erection, construction, alteration or maintenance of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call

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boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories, but not including communication towers, which are reasonably necessary for the furnishing of adequate service for the public health, safety, or general welfare by public utilities or governmental units, boards, or commissions is permitted in any zoning district., subject to the following provisions:

- 5.8.1.1** A fence or wall six (6) feet high and adequate to obstruct passage of persons or materials shall enclose electrical substations and/or gas regulator stations.
- 5.8.1.2** Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.
- 5.8.1.3** Communication towers require a Special Land Use Permit according to the standards in Article 9 and Article 14.
- 5.8.1.4** Any building erected for human occupancy after the effective date of this *Ordinance* and used for dwelling, business, industrial, mercantile, or storage purposes shall not be erected, altered, used, or moved upon any premises without a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.
- 5.8.1.5** All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the District Health Department as well as those of other applicable local, county, state, or federal agencies.
- 5.8.1.6** Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of the vacated area.

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## **SECTION 5.9 GENERAL ACCESS REGULATIONS**

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### **5.9.1 DRIVEWAY STANDARDS**

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#### **5.9.1.1 ROAD AUTHORITY APPROVAL**

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No driveway shall connect to a public street or road without first receiving approval of the driveway location and cross section specifications from either the Gogebic County Road Commission (on a County road) or the Michigan Department of Transportation (MDOT) (on a state highway). However, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.

#### **5.9.1.2 DRIVEWAY PLANS AND SPECIFICATIONS**

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### A) PLAN APPROVAL

All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the Township shall contain a plan for the proposed driveway access to the premises. Such plan shall be approved by the Zoning Administrator before the issuance of a Zoning Permit. No such plan shall be approved unless such driveway access is onto a dedicated public street or road, or to a pre-existing private street or road.

### B) ONE DRIVEWAY PER PARCEL

Each parcel with a single tax code number on the effective date of this *Ordinance*, which fronts on one side of a major thoroughfare, shall be entitled to one (1) driveway access from that street or highway. Subsequent division of each parcel, by metes and bounds descriptions, by plats created in accord with *P.A. 288 of 1967 as amended*, or by site condominiums in accord with *Act 59 of 1978 as amended*, shall provide access by a single public road or by an approved joint parking area or driveway, as described in Section 5.5.4. No direct additional access to the major thoroughfare shall be permitted with subsequent land divisions unless the parcel has more than six hundred (600) feet of frontage and driveway separation is at least six hundred (600) feet; except following a careful review of onsite conditions by the Gogebic County Road Commission or MDOT, as applicable, a lesser separation distance is approved. However, if a parcel is split by a street or road, there may be a driveway on both sides of the road, provided they are both in direct alignment with one another.

### C) SPECIFICATIONS APPLICABLE TO ALL DRIVEWAYS

- (1) Drives should enter perpendicular to the existing public street, private street, or alley.
- (2) No portion of the driveway entrance within the right-of-way shall have a grade of greater than fifteen (15) percent (1 foot vertical rise in 6.7 feet of horizontal distance) unless a greater slope is necessary because of site conditions.
- (3) The driveway shall meet clear vision standards of Section 5.4.5.3.
- (4) Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street except on a nonconforming lot of record, in which case the maximum separation feasible shall be achieved, but in no case shall it be less than twenty-five (25) feet.
- (5) Driveways shall be designed to minimize runoff and erosion and shall not alter existing drainage unless approved by appropriate road authority.
- (6) The location of new driveways shall conform with road improvement plans or corridor plans adopted by the appropriate road authority.
- (7) An individual driveway serving more than one non-residential use is permitted, but access for a non-residential use shall not cross residentially-zoned property.
- (8) The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features provided that the resulting alignment provides safe access and if all other access requirements of this *Ordinance* are met.

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- (9) The Gogebic County Road Commission or MDOT shall inspect the constructed driveway for compliance to all standards and shall so notify the Building Inspector prior to issuance of a Building Permit.
- (10) In non-residential zones, no more than one driveway shall be allowed per lot or parcel on a street unless separated by two hundred (200) feet, or unless traffic safety requires another driveway within a shorter distance as established by the Gogebic County Road Commission, or MDOT, or a qualified traffic engineer by means of a traffic impact study prepared according to MDOT guidelines, or unless additional driveways are permitted in Special Land Use standards for a particular use.

D) RESIDENTIAL DRIVEWAY SPECIFICATIONS

<b>Residential Driveway Specifications</b>		
<b>Design Features</b>	<b>Standard Specification</b>	<b>Accepted Range</b>
Intersecting Angle	90 degree	70 to 110 degree
Driveway Width	12 feet	10 to 24 feet
Entering and Exit Taper	2 feet	2 to 4 feet
Curb Cut	14 feet	14 to 28 feet

E) NON-RESIDENTIAL DRIVEWAY SPECIFICATIONS

<b>Non-Residential Driveway Specifications*</b>		
<b>Design Features</b>	<b>Standard Specification</b>	<b>Accepted Range</b>
Intersecting Angle	90 degree	70 to 110 degree
Driveway Width	24 feet	12 to 35 feet
Entering and Exit Taper	6 feet	3 to 20 feet
Curb Cut	36 feet	18 to 75 feet

\*Commercial, Industrial, Multiple-Family (5 unit and greater)

**5.9.2 SIDEWALKS**

Every subdivision, condominium project, PUD, commercial, industrial, or other public, or private project newly constructed in the Township or which must go through site plan review shall have sidewalks or another approved walkway system meeting the following requirements:

**5.9.2.1** Sidewalks shall be at least five (5) feet in width and meet the Township construction standards.

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- 5.9.2.2** Intersections of pedestrian paths with streets shall be designed with clearly defined edges. Crosswalks shall be well-lit and defined with contrasting paving materials or striping.
- 5.9.2.3** All pedestrian sidewalks and paths shall be handicapped accessible.

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### **5.9.3 PUBLIC STREET STANDARDS**

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New public roads or streets shall conform to the requirements of this Section.

- 5.9.3.1** The creation of a street that serves a subdivision or a parcel shall meet or exceed the cross-sectional construction standards established by the appropriate road approval authority.
- 5.9.3.2** All new streets shall be dedicated to and accepted by the public, and no structure or development activity shall be established within approved rights-of-ways or easements. All plans as submitted for approval must show the proposed street including a legal description and sketch of description, and must include profiles with the horizontal and vertical alignments and drainage systems for these streets.
- 5.9.3.3** All streets shall terminate at other streets or at public land, except as specified below:
- A) Access lanes that terminate in cul-de-sacs may be permitted only when topography prevents the use of loop streets.
  - B) Local streets may terminate in stub streets when such streets act as connections to future phases of the development.
- 5.9.3.4** Right angle intersections shall be used whenever possible. No street shall intersect another at an angle of less than seventy (70) degrees.
- 5.9.3.5** Connection to County roads requires construction authorization from the Gogebic County Road Commission; and connection to State highways requires construction authorization from the Michigan Department of Transportation. The County may disapprove a proposed public street or road that does not provide a connection to another public street or road when that connection is necessary for safe traffic flow and emergency vehicle access.
- 5.9.3.6** No more than twenty-five (25) lots may gain access to a single street if only one point of intersection is provided between the new street and another existing public street. No more than seventy-five (75) lots may gain access to a new street where two or more points of intersection are provided between the new street and other public streets.

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**5.9.3.7** Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 5-5.

**5.9.3.8** *Pedestrian Circulation:* Pedestrian sidewalks or paths shall be provided with all new developments as determined by the Zoning Administrator or Planning Commission, especially if designated as a priority pedestrian corridor in the Master Plan, and based on the need to connect residences with community focal points, schools, parks and recreation areas, municipal buildings, public facilities, and shopping areas, and in accordance with Section 5.9.2.

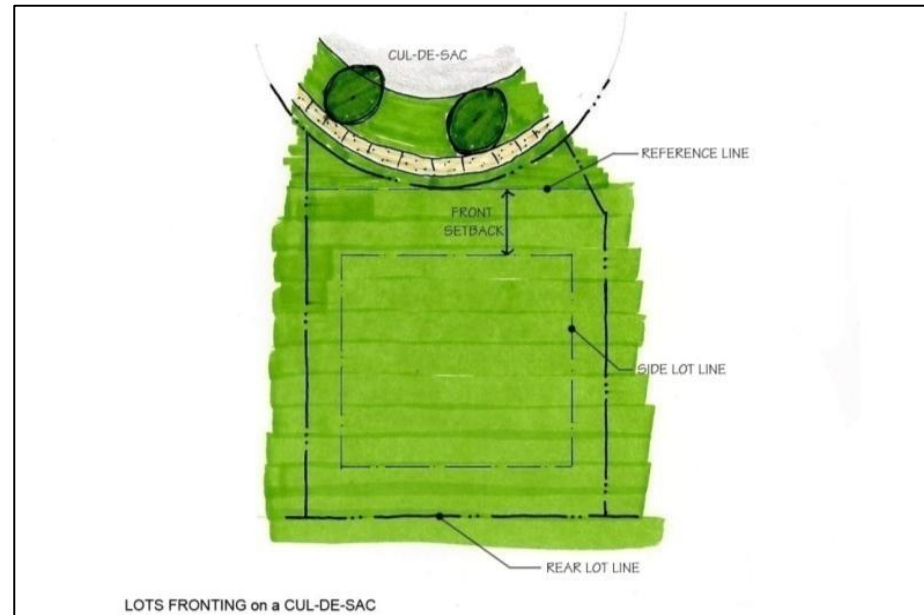
**5.9.3.9** *Natural Drainage:* Whenever possible, rain gardens and bioswales shall be installed to infiltrate runoff from streets and other impervious surfaces. Turf grass shall be replaced with native plant perennial landscapes placed lower than walkways to serve as natural filters for stormwater runoff.

**5.9.3.10** *Street Trees:* With all new street development or redevelopment, street trees shall be planted thirty (30) feet apart, below the grade of the sidewalk and roadway, in cells with structural soils and sufficient root space.

**5.9.3.11** *Application Review:* The Zoning Administrator shall review and send to the appropriate road authority for review and comment, the plans of a new public street. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.

**5.9.3.12** The Zoning Administrator shall arrange for inspections by the appropriate road authority during construction of, and upon completion of, the new street. No building permit shall be issued for a structure along any new public street until such street is given final approval by the Gogebic County Road Commission or MDOT.

**Figure 5-5 Lots Fronting on a Cul-De-Sac**



**SECTION 5.10 ENVIRONMENTAL PROTECTION PROVISIONS**

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

**5.10.1 SENSITIVE ENVIRONMENTAL AREAS**

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**5.10.1.1 WETLANDS**

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Defined by degree of soil wetness, generally including those soils classified by the *Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 303, Section 324.30301 et seq* 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.

**5.10.1.2 SENSITIVE RIVERINE AREAS**

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Defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land, these areas may require a soil erosion and sedimentation control permit under *Part 91, Section 324.9101 et seq of the Michigan Natural Resources & Environmental Protection Act, Public Act 451 of 1994, (formerly, PA 346 of 1972)*. See also Flood Plain Areas below.

**5.10.1.3 FLOODPLAINS**

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**A) NATIONAL REGULATION OF FLOODPLAIN AREAS**

Defined as 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 shall not be erected until after receipt of a permit from the Michigan Dept. of Environmental Quality pursuant to *Part 31 of the Michigan Natural Resource & Environmental Protection Act, Public Act 451 of 1994*. The objectives of these regulations include:

- (1) The protection of human life, health, and property from the dangerous and damaging effects of flood conditions.
- (2) The minimization of public expenditures for flood control of projects, rescue and relief efforts, repair of damaged public facilities and utilities, and the costs of redevelopment.
- (3) The prevention of private and public economic loss and social disruption.

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- (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage.
- (5) To preserve the ability of floodplains to carry and discharge a base flood.

### B) LOCAL REGULATION OF FLOODPLAIN AREAS

These regulations will be certified by a registered engineer.

- (1) Where permitted, any structure built within a floodplain shall have its lowest occupied level one foot above the base flood elevation.
- (2) Accessory structures and uses permitted with a principal use shall meet the standards of this *Ordinance*, and the following:
  - a. The structure will not cause an increase in water surface elevation, obstruct flow, or reduce the impoundment capacity of the floodplain.
  - b. All equipment and structures shall be anchored to prevent flotation and lateral movement.
- (3) The following uses are permitted within a floodplain if these uses are also allowed in the applicable zoning district:
  - a. Harvesting of a native or wild crop permitted by law such as wild rice, marsh hay, berries, and seeds.
  - b. Harvesting of trees
  - c. Parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, bridle paths, nature paths, trails, day camps, outdoor recreational clubs, golf courses, and public open land
  - d. Wildlife preserves, conservation areas, arboretum or botanical gardens
  - e. Historic sites and structures
  - f. Swimming beaches, fishing and boating docks in accord with *Part 301 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended*
  - g. Required open space or yard for landward structural uses
  - h. Agriculture and nurseries

#### **5.10.1.4 STEEP SLOPES**

When the proposed building site has slopes in excess of fifteen (15) percent, questionable soils stability, or evidence of erosion, the Zoning Administrator shall require the applicant to obtain a site analysis and conform with the applicable requirements of this Section.

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### **5.10.1.5 RETAINING WALL PERMIT**

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No shoreline retaining wall shall be erected without first having obtained a permit from the Michigan Department of Environmental Quality.

### **5.10.1.6 STORMWATER MANAGEMENT**

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#### **A) GENERAL PROVISIONS**

- 1) When any land in the Township is developed or altered in any way which affects stormwater runoff, the owner shall detain such stormwater from runoff onto adjacent properties, including roads and other rights-of-way, in such a manner which shall result in the maximum amount of stormwater runoff not exceeding that which existed prior to the development or improvement of the property, and in accord with the requirements of the *Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 91, Section 324.9101 et.seq.* In addition, all development shall conform to the *County Soil Erosion, Sedimentation and Stormwater Control Resolution* and any general rules or administrative guidelines.
- 2) Special attention shall be given to proper site drainage so that runoff of stormwater shall not adversely affect neighboring properties or the water quality of the Township's rivers and streams. Stormwater control mechanisms, such as retention/detention basins, vegetative buffers, swales, and infiltration trenches, shall be required to ensure that the peak rate of stormwater runoff after development does not exceed the rate prior to development.
- 3) The final grade surface of ground areas remaining after the construction of a building or structure, and any earth changes made in connection with use of land, shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids any increase in surface water discharge onto adjacent properties or public roads, the erosion of or filling of any road ditch, the blockage of any natural or public watercourse, the creation of standing water over a private sewage disposal drainage field, and any unnecessary impoundment of surface water. The provisions of this section shall be administered and enforced pursuant to the site plan review provisions of Section 14, when applicable. In all other cases, the Zoning Administrator shall determine whether the provisions of this section are met. When it is determined that inadequate surface water control exists, no Certificate of Zoning Compliance shall be issued until the situation is corrected and approved by the Zoning Administrator.

#### **B) CREATION OF PONDS**

For purposes of this *Ordinance*, a pond is defined as a manmade excavation or impoundment of surface water designed to retain or detain water with a surface area of at least one-thousand (1,000) square feet. Ponds are subject to the following regulations:

- 1) No person shall commence the excavation, dredging, or construction of a dam that is designed, intended, or results in the creation or enlargement of a pond without first making application for and receiving a Certificate of Zoning Compliance approving the specific plans for a pond.

## *Bessemer Township Zoning Ordinance*

- 2) An application for a Certificate of Zoning Compliance for a pond shall be made pursuant to Article 14 of this *Ordinance*.
- 3) Proposed ponds of less than one (1) acre in size shall be considered under a minor site plan.
- 4) Applications for ponds larger than one (1) acre and/or ponds which are located within five-hundred (500) feet of a lake, river, stream, or open Township drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the extent to which the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994*, apply to the proposal.
- 5) Ponds (or manmade lakes) in excess of five (5) acres shall be considered major site plans under Article 14.
- 6) Plans for ponds shall indicate the size, depth, and proposed finished grade of the land both above and below water level, any proposed fencing location and specifications. In addition, the applicant shall indicate sources of water being used to supply the pond (such as stream impoundment, surface water runoff, springs, and wells).
- 7) No pond shall be closer than fifty (50) feet from any property line, easements for egress, dwelling units, septic drainage fields and domestic wells.
- 8) Ponds on parcels of less than twenty (20) acres in size that are not enclosed by a four (4) feet high fence shall be required to provide and maintain one or more safety stations in compliance with the following:
  - a. U.S. Coast Guard approved ring buoys securely connected to forty feet of rope mounted on posts located at five-hundred (500) feet intervals around the perimeter of the pond.
  - b. A twelve (12) feet long pole shall be attached to one safety station.
- 9) Ponds under five (5) acres are permitted without regard to the eight (8) previous subsections if:
  - a. On a bonafide commercial agriculture or horticulture operation;
  - b. The pond is approved by the National Resources Conservation Service as being in conformance with their existing pond design standards.

### **5.10.1.7 ENVIRONMENTAL NUISANCE PREVENTION**

Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located. It shall be unlawful to carry on or permit to be carried on any activity or operation of use of any land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or to human activity. All proceedings of the Planning Commission, Zoning Board of Appeals, and Township Board shall be conducted, and all decisions shall be made with due consideration given to the maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.



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### A) DANGEROUS EXPLOSIVE AND FLAMMABLE MATERIALS:

- 1) No use of a building or premises shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. All buildings, above or below ground storage, and handling areas where dangerous chemicals, salts, flammable materials, or hazardous substances are regularly used, moved or stored shall conform to all applicable local, County, State, and Federal regulations and requirements; including the maintenance of any clear zone and/or containment structures required by government authorities. Failure to disclose such materials to fire, emergency services agencies and the Michigan Department of Environmental Quality as may be required by State or Federal laws, is also a violation of this *Ordinance*.
- 2) All outdoor above or below ground handling area and storage facilities for dangerous chemicals, explosive or flammable materials, fuels and other hazardous substances in excess of fifty (50) gallons or one-hundred fifty (150) pounds per month, shall:
  - a. Be constructed and maintained in compliance with:
    1. All applicable Michigan Department of Environmental Quality, Michigan Department of Agriculture, State Fire Marshal and U.S. EPA Standards;
    2. *The Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq., and*
    3. All applicable County, local Fire Code and "Right-to-Know" laws.
    4. A Pollution Incidence Prevention Plan (PIPP) if required under state law.
  - b. Be located on a lot at least one-half (½) acre in size.
  - c. Not store fuel in above or below ground tanks closer than seventy-five (75) feet to a building unless it is liquefied petroleum gas or heating fuel in an approved tank, in which case it shall not be closer to a building than the distance allowed by the State Mechanical Code.
  - d. Secondary containment structures shall be required to protect the environment from accidental spills of all hazardous liquids. Hazardous liquids shall include all "hazardous wastes" as defined by *Act 64 of 1979*, that are in liquid form. Secondary containment structures shall include structures such as but not limited to dikes and berms surrounding transfer and storage areas, enclosed structures, and interior storage rooms with sills and no floor drains. All secondary containment structures shall be at least large enough to hold the capacity of the largest drum or tank in the transfer or storage area. Secondary containment structures shall be covered, but if flammable, not fully enclosed, with a satisfactory dewatering plan to prevent leaks and spills from entering drains, sewers, surface or groundwater.
  - e. No floor drains shall be permitted in any areas involving the transfer or disposal of hazardous liquids unless all hazardous liquids are collected and properly treated or disposed of offsite.
  - f. If the quantity of material in Section 5.10.1.7.A.2 above is less than the regulatory threshold of the Michigan Department of Environmental Quality, the Michigan Department of Agriculture, State Fire Marshal or U.S. EPA

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Standards then the secondary containment structures required above shall conform with standards prepared by the Zoning Administrator and adopted by the Planning Commission.

- g. The owner shall supply the Zoning Administrator, Sheriff's Department and Emergency Services Coordinator with the name and phone number of persons responsible for materials on the site and who is available 24 hours in case of a leak or spill.

### B) JUNK

No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district a dismantled, partially dismantled, unlicensed, or inoperable motor vehicle or farm machinery, junk, rubbish, or litter upon any premises, except as provided for in Article 9, or in the case of motor vehicles or inoperable farm machinery, unless confined in a wholly enclosed structure.

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## **SECTION 5.11 GENERAL MISCELLANEOUS REGULATIONS**

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### **5.11.1 BUILDING MATERIALS**

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New buildings are strongly encouraged to mimic designs and materials indigenous to the area and long recognized as part of the character of the Bessemer Township.

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### **5.11.2 OPEN STORAGE**

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Storage of major recreational equipment such as utility trailers, boat trailers, boats, recreational vehicles and similar major recreational equipment may be stored in the open on any lots subject to the following provisions:

- 5.11.2.1** Dead storage only is allowable, and no connection to any permanent power, water, or sewer facilities is allowed.
- 5.11.2.2** Such equipment shall not be used for human occupancy nor used as business, recreational, or housekeeping purposes.
- 5.11.2.3** Such equipment must be in usable and in safe condition except for periods when necessary repairs or alterations are being conducted.
- 5.11.2.4** Such equipment shall be stored in the side or rear yard provided accessory building setbacks are met, unless it is stored in an existing garage or carport.
- 5.11.2.5** No such equipment shall be parked or stored in such manner or in such location in the lot or parcel as to create a dangerous or unsafe condition.

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**5.11.3 OUTDOOR LIGHTING**

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**5.11.3.1 INTENT**

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The intent of these regulations is to:

- A) Promote safety through properly designed lighting that reduces unsafe glare and does not negatively affect visibility.
- B) Conserve natural resources through improved energy efficiency.
- C) Reduce the trespass of light or glare over property lines.
- D) Reduce light pollution of the night sky.

**5.11.3.2 LIGHTING STANDARDS**

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- A) Commercial outdoor lighting shall be used for safe pedestrian passage and property identification, and otherwise shall be extinguished no later than one half hour after the close of business.
- B) Lighting that is designed for the external illumination of buildings, so as to feature said buildings, shall be located and shielded so as not to project upward above the building, or to interfere with the vision of persons on adjacent roads and streets or adjacent property.
- C) All outdoor lighting above 70 watts, including illuminated signs, shall be placed, and shielded, to reduce glare and reflect light away from adjacent residential districts and adjacent dwelling units as well as to prevent interference with the vision of persons on adjacent highways.
- D) All freestanding outdoor lighting shall be fully shielded and directed downward with a full cutoff to prevent off-site glare; and shall not exceed sixteen (16) feet in height except to light a public athletic field or public street lights.
- E) Canopy lighting shall be fully recessed.
- F) Fixtures shall be located no closer to the property line than four (4) times the mounting height of the fixture, and shall not exceed the height of adjacent structures. Exceptions to this rule may be approved by the Planning Commission for large parking areas, non-residential uses adjacent to highways, or for fixtures with greater cut off shielding.
- G) Interior lighting shall be designed so that it does not illuminate the outdoors. After close of business, interior lighting that extends outdoors shall be extinguished by the use of shut-off timers.
- H) The intensity of light within a site shall not exceed ten (10) footcandles within any part of the site and one (1) footcandle at any property line, except where it abuts a Residential Use where a maximum of one half (0.5) footcandle is permitted.

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## **ARTICLE 6: SCHEDULE OF REGULATIONS – BASE ZONING DISTRICTS**

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### **SECTION 6.1 MIXED DENSITY RESIDENTIAL DISTRICT (R-1)**

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#### **6.1.1 INTENT AND GUIDING PRINCIPLES (R-1)**

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The *Mixed Density Residential district* is an area offering a range of housing choices including higher intensity multi-family residential uses, and will accommodate small office and commercial uses meant to conveniently serve the residents of surrounding neighborhoods and reduce necessary automobile trips. This district is located where the potential for community sewer and water facilities exist, preferably on the fringe of denser urban areas. It also accommodates mobile home parks and manufactured housing communities. A diversity of housing types for various income levels is encouraged. Pedestrian and bicycle circulation is very important in this area.

#### **6.1.2 DISTRICT USE STANDARDS (R-1)**

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Use standards for the R-1 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

#### **6.1.3 DEVELOPMENT REQUIREMENTS (R-1)**

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##### **6.1.3.1 LOT CONFIGURATION STANDARDS (R-1)**

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###### **A) MINIMUM LOT SIZE**

Minimum lot size in the R-1 district varies according to use as below:

- 1) Single-Family Residential – Six-thousand (6,000) square feet
- 2) Duplexes – Ten-thousand (10,000) square feet
- 3) Multi-Family Residential – Twelve-thousand (12,000) square feet
- 4) Non-Residential or Mixed-Use – Five-thousand (5,000) square feet
- 5) Without public water/sewer – Twenty-five thousand (25,000) square feet

## *Bessemer Township Zoning Ordinance*

### B) MINIMUM LOT WIDTH

Minimum lot width in the R-1 district varies according to use as below:

- 1) Single-Family Residential – Fifty ( 50) feet
- 2) Duplexes – Seventy-five (75) feet
- 3) Multi-Family Residential – One hundred (100) feet
- 4) Non-Residential or Mixed-Use – Seventy-five (75) feet
- 5) Without public water/sewer – One hundred fifty (150) feet

### C) FRONT SETBACK

Minimum front setback in the R-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Fifteen (15) feet
- 2) Multi-Family Residential – Twenty (20) feet
- 3) Non-Residential or Mixed-Use – Ten (10) feet

The maximum front setback shall be Twenty-five (25) feet

### D) SIDE YARD

Minimum side yard in the R-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Five (5) feet
- 2) Multi-Family Residential – Eight (8) feet
- 3) Non-Residential or Mixed-Use – Five (5) feet

### E) REAR YARD

The minimum rear yard in the R-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Ten (10) feet
- 2) Multi-Family Residential – Ten (10) feet
- 3) Non-Residential or Mixed-Use – Ten (10) feet

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The Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

### F) MAXIMUM LOT COVERAGE

The maximum lot coverage in the R-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes- Fifty (50) percent
- 2) Multi-Family Residential – Sixty (60) percent
- 3) Non-Residential or Mixed-Use – Sixty (60) percent

### G) MAXIMUM IMPERVIOUS SURFACE

The maximum impervious surface in the R-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes- Sixty-five (65) percent
- 2) Multi-Family Residential – Seventy-five (75) percent
- 3) Non-Residential or Mixed-Use – Seventy-five (75) percent

## **6.1.3.2 PRINCIPAL STRUCTURE STANDARDS (R-1)**

---

### A) MAXIMUM HEIGHT

The maximum permitted height in the R-1 district varies according to use as below:

- 1) Single-family residential and duplexes – Two and a half (2.5) stories or thirty-five (35) feet
- 2) Multi-Family Residential – Three (3) stories or Forty-two (42) feet
- 3) Non-Residential or Mixed-Use – Two and a half (2.5) stories or thirty-five (35) feet

### B) MINIMUM FLOOR AREA PER UNIT

The minimum floor area per unit in the R-1 district varies per use as follows:

- 1) Single-family Residential – Nine hundred (900) square feet per single unit
- 2) Duplexes – Seven-hundred (700) square feet per single unit
- 3) Multi-Unit Dwelling – Five-hundred (500) square feet per single unit

## *Bessemer Township Zoning Ordinance*

- 4) There is no minimum floor area per unit for non-residential or mixed uses.

### **6.1.3.3 ACCESSORY STRUCTURE STANDARDS (R-1)**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the R-1 district is twenty-four (24) feet with the minimum setbacks as listed in Section 6.1.3.3.B below. However, accessory structures with accessory dwelling units in the R-1 district may be up to thirty-five (35) feet in height, provided that the structure is setback from all lot lines an additional foot for each foot in height over twenty-four (24) feet.

#### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of an accessory structure must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of three (3) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line, except that they may be as close as three (3) feet to a rear lot line when the rear lot line is co-terminus with an alley.

#### C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the R-1 district shall be no larger than the building footprint of the principal dwelling.

#### D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than eight (8) feet to a principal structure.

### **6.1.4 MISCELLANEOUS PROVISIONS (R-1)**

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#### **6.1.4.1 OFF-STREET PARKING AND LOADING ZONE STANDARDS**

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- A) All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

## *Bessemer Township Zoning Ordinance*

### **6.1.4.2 SCREENING STANDARDS**

---

- A) Proposed developments that create new streets shall place utility lines underground.
- B) The developer shall install sidewalks according to Township standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

## **SECTION 6.2 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)**

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### **6.2.1 INTENT AND GUIDING PRINCIPLES (R-2)**

---

The Medium Density Residential district (R-2) is intended to preserve the existing character of the traditional residential neighborhoods and to guide redevelopment in a manner which is consistent and compatible with this form. Residential character is reflected around a framework of well-connected grid street systems with sidewalks. The pedestrian environment is enhanced by compact development on small lots, and homes set relatively close to the street with front porches and clearly defined front entrances. This district is intended to create and preserve viable and walkable neighborhoods and provide for all season non-motorized connections. This district is generally located where all of the facilities for urban living, including community sewer and water facilities, are available. Generally homes are located on small lots in pedestrian-friendly, compact neighborhoods where homes are of similar scale and character. This *Ordinance* shall encourage pedestrian-scale form with appropriate amenities such as pedestrian-scale lighting, street trees, and street widths applying traffic calming principles while accommodating on-street parking. Landscaping treatments that improve stormwater management, manage winter micro-climatic conditions, and reduce wind chill are encouraged.

### **6.2.2 DISTRICT USE STANDARDS (R-2)**

---

Use standards for the R-2 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.



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**6.2.3 DEVELOPMENT REQUIREMENTS (R-2)**

---

**6.2.3.1 LOT CONFIGURATION STANDARDS**

---

A) MINIMUM LOT SIZE

Minimum lot size in the R-2 district varies according to use as below:

- 1) Single-Family Residential – Five-thousand (5,000) square feet
- 2) Duplexes – Eight-thousand (8,000) square feet
- 3) Multi-Family Residential – Ten-thousand (10,000) square feet
- 4) Non-Residential or Mixed-Use – Three-thousand (3,000) square feet
- 5) Without public water/sewer – Twenty-five thousand (25,000) square feet

B) MINIMUM LOT WIDTH

Minimum lot width in the R-2 district varies according to use as below:

- 1) Single-Family Residential – Fifty ( 50) feet
- 2) Duplexes – Seventy-five (75) feet
- 3) Multi-Family Residential – Seventy-five (75) feet
- 4) Non-Residential or Mixed-Use – Seventy-five (75) feet
- 5) Without public water/sewer – One hundred and fifty (150) feet

C) FRONT SETBACK

Minimum front setback in the R-2 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Ten (10) feet
- 2) Multi-Family Residential – Fifteen (15) feet
- 3) Non-Residential or Mixed-Use – Ten (10) feet

The maximum front setback in the R-2 district is twenty (20) feet.

## *Bessemer Township Zoning Ordinance*

### D) SIDE YARD

Minimum side yard in the R-2 district varies according to use as below:

- 1) Single-Family Residential and Duplexes- Five (5) feet
- 2) Multi-Family Residential – Eight (8) feet one side
- 3) Non-Residential or Mixed-Use – Five (5) feet

### E) REAR YARD

The minimum rear yard in the R-2 district varies according to use as below:

- 1) Single-Family Residential and Duplexes- Twenty (20) feet
- 2) Multi-Family Residential – Twenty-five (25) feet
- 3) Non-Residential or Mixed-Use – Twenty (20) feet

### F) MAXIMUM LOT COVERAGE

The maximum lot coverage in the R-2 district varies according to use as below:

- 1) Single-Family Residential and Duplexes- Forty (40) percent
- 2) Multi-Family Residential – Fifty (50) percent
- 3) Non-Residential or Mixed-Use – Sixty (60) percent

### G) MAXIMUM IMPERVIOUS SURFACE

The maximum impervious surface in the R-2 district varies according to use as below:

- 1) Single-Family Residential and Duplexes- Fifty-five (55) percent
- 2) Multi-Family Residential – Sixty-five (65) percent
- 3) Non-Residential or Mixed-Use – Seventy-five (75) percent

## *Bessemer Township Zoning Ordinance*

### **6.2.3.2 PRINCIPAL STRUCTURE STANDARDS**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height in the R-2 district varies per use as follows:

- 1) Single-family residential and duplexes – Two and a half (2.5) stories or thirty-five (35) feet
- 2) All other uses – Two (2) stories or thirty-five (35) feet

#### B) MINIMUM FLOOR AREA PER UNIT

The minimum floor area per unit in the R-2 district varies per use as follows:

- 1) Single-family residential – Nine-hundred (900) square feet per single unit
- 2) Duplex – Six-hundred (600) square feet per single unit
- 3) Multi-Unit Dwelling – Five-hundred (500) square feet per single unit

### **6.2.3.3 ACCESSORY STRUCTURE STANDARDS**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the R-2 district is twenty-four (24) feet.

#### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of three (3) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line, except that they may be located as close as three (3) feet to a rear lot line when the rear lot line is co-terminus with an alley.

#### C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the R-2 district shall be no larger than the building footprint of the principal dwelling.

## *Bessemer Township Zoning Ordinance*

### D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than eight (8) feet to a principal structure.

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#### **6.2.4 MISCELLANEOUS PROVISIONS (R-2)**

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##### **6.2.4.1 OFF-STREET PARKING AND LOADING ZONE STANDARDS**

---

- A) All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

##### **6.2.4.2 STREETScape STANDARDS**

---

- A) Proposed developments that create new streets shall place utility lines underground.
- B) The developer will install sidewalks according to Township standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

##### **6.2.4.3 SCREENING OF OUTDOOR STORAGE OF TRASH OR RUBBISH**

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- A) All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence or wall no less than six (6) feet high with solid closing doors.

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### **SECTION 6.3 PRIMARY RURAL RESIDENTIAL DISTRICT (R-3)**

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#### **6.3.1 INTENT AND GUIDING PRINCIPLES (R-3)**

---

The *Primary Rural Residential district* includes properties with a residence (normally a permanent single-family residence, but may include seasonal use) normally with septic and private well infrastructure. These properties have access to a primary County road and exist in various levels of density. A slightly higher residential density is envisioned for properties along County primary roads when the development is formatted as a residential conservation or cluster development, provided that at least 60% of the space is usable, undeveloped, open space (i.e. 24 of 40 acres) and that approved waste handling systems are engineered.

## *Bessemer Township Zoning Ordinance*

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### **6.3.2 DISTRICT USE STANDARDS (R-3)**

---

Use standards for the R-3 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

---

### **6.3.3 DEVELOPMENT REQUIREMENTS (R-3)**

---

#### **6.3.3.1 LOT CONFIGURATION STANDARDS (R-3)**

---

##### A) MINIMUM LOT SIZE

Minimum lot size in the R-3 district varies by use as follows:

- 6.3.3.1.1.1 Single Lot Development – Five (5) acres
- 6.3.3.1.1.2 Conservation Development – One (1) acre

##### B) MINIMUM LOT WIDTH

Minimum lot width in the R-3 district is one-hundred (100) feet.

##### C) FRONT SETBACK

Minimum front setback in the R-3 district varies by use as follows:

- 1) Single Lot Development – Twenty (20) feet
- 2) Conservation Development – Fifteen (15) feet

##### D) SIDE YARD

Minimum side yard in the R-3 district varies by use as follow:

- 1) Single Lot Development – Ten (10) feet
- 2) Conservation Development – Eight (8) feet

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### E) REAR YARD

The minimum rear yard in the R-3 district is twenty-five (25) feet. The Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition, or to provide more water quality protection.

### F) MAXIMUM LOT COVERAGE

There is no maximum lot coverage requirement in the R-3 district.

### G) MAXIMUM IMPERVIOUS SURFACE

There is no maximum impervious surface requirement in the R-3 district.

#### **6.3.3.2 PRINCIPAL STRUCTURE STANDARDS (R-3)**

---

### A) MAXIMUM HEIGHT

The maximum permitted height in the R-3 district is two (2) stories or thirty-five (35) feet.

### B) MINIMUM FLOOR AREA PER UNIT

Minimum floor area in the R-3 district is eight-hundred (800) square feet per single unit.

#### **6.3.3.3 ACCESSORY STRUCTURE STANDARDS (R-3)**

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### A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the R-3 district is thirty-five (35) feet.

### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. Accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of ten (10) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

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### C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the R-3 district shall be no larger than the building footprint of the principal dwelling.

### D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than ten (10) feet to a principal structure.

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#### **6.3.4 MISCELLANEOUS PROVISIONS (R-3)**

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For additional standards, see Article 5.

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### **SECTION 6.4 SECONDARY RURAL RESIDENTIAL DISTRICT (R-4)**

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#### **6.4.1 INTENT AND GUIDING PRINCIPLES (R-4)**

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The *Secondary Rural Residential district* includes lower residential densities such as one unit per 10 acres. Residential uses are normally on septic and private well and are located on a local County road. It is preferred that these homes will be located close to the road to preserve more space for natural resources or resource production opportunities. A slightly higher residential density is envisioned for properties when the development is formatted as a residential conservation or cluster development, provided that at least 75% of the space is usable, undeveloped, open space and that approved waste handling systems are engineered.

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#### **6.4.2 DISTRICT USE STANDARDS (R-4)**

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Use standards for the R-4 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

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#### **6.4.3 DEVELOPMENT REQUIREMENTS (R-4)**

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##### **6.4.3.1 LOT CONFIGURATION STANDARDS (R-4)**

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### A) MINIMUM LOT SIZE

## *Bessemer Township Zoning Ordinance*

Minimum lot size in the R-4 district varies according to use as below:

- (1) Single Lot Development – Ten (10) acres
- (2) Conservation Development – One (1) acre

### B) MINIMUM LOT WIDTH

Minimum lot width in the R-4 district is one hundred (100) feet.

### C) FRONT SETBACK

Minimum front setback in the R-4 district varies according to use as below:

- 6.4.3.1.1.1 Single Lot Development – Twenty (20) feet
- 6.4.3.1.1.2 Conservation Development – Fifteen (15) feet

### D) SIDE YARD

Minimum side yard in the R-4 district varies according to use as below:

- 1) Single Lot Development – Ten (10) feet
- 2) Conservation Development – Eight (8) feet

### E) REAR YARD

Minimum rear yard in the R-4 district is twenty-five (25) feet.

### F) MAXIMUM LOT COVERAGE

There is no maximum lot coverage requirement in the R-4 district.

### G) MAXIMUM IMPERVIOUS SURFACE

There is no maximum impervious surface requirement in the R-4 district.



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### **6.4.3.2 PRINCIPAL STRUCTURE STANDARDS (R-4)**

---

A) MAXIMUM HEIGHT

The maximum permitted height in the R-4 district is two and a half (2.5) stories.

B) MINIMUM FLOOR AREA PER UNIT

The minimum floor area per unit in the R-4 district is eight hundred (800) square feet per single unit.

### **6.4.3.3 ACCESSORY STRUCTURE STANDARDS (R-4)**

---

A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the R-4 district is thirty-five (35) feet.

B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of ten (10) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the R-4 district shall be no larger than the building footprint of the principal dwelling.

D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than ten (10) feet to a principal structure.

### **6.4.4 MISCELLANEOUS PROVISIONS (R-4)**

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For additional standards, see Article 5.

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**SECTION 6.5 CORE MIXED-USE DISTRICT (M-1)**

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**6.5.1 INTENT AND GUIDING PRINCIPLES (M-1)**

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The intent of the Core Mixed-Use district is to promote the establishment of a mix of vertically and horizontally integrated uses including retail, office, institutional, residential, and other non-residential uses while preserving traditional downtown and neighborhood character. This integration of uses will facilitate shopping and service opportunities close to neighborhoods, and will accommodate non-motorized forms of transportation including public transit. Development in this district will provide for commerce at a density and scale that is appropriate for nearby residential areas, while placing primary importance on a safe and pleasing pedestrian environment.

New development will be compatible with traditional form, with shallow building setbacks and sidewalks separating buildings from the street. Commerce is closely integrated with residences to encourage vitality and safety as residents keep eyes on the streets. Trees and vegetation are necessary to improve the pedestrian landscape and provide buffers from activity.

This district is also intended to contain a mix of housing types and residential densities. Appropriate buffers and careful layout of structures and parking are important in this area to ensure compatibility.

The pedestrian landscape is of primary importance, as is accommodation of bicycle traffic with bike lanes and bike racks. Because of the linear nature of this district, the provision of intermittent year-round public spaces is important to enhance social interaction and the pedestrian experience. Seasonal outdoor cafes contribute to the active vitality of this area. On-street parking should be maximized to support customer convenience and walkability. The requirements for off-street parking should be minimized to enhance the pedestrian landscape and ensure compatibility with the surrounding traditional neighborhoods. Landscape buffers should be utilized around the perimeter of surface parking lots. Snow management is very important in this area to ensure year-round economic viability.

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**6.5.2 DISTRICT USE STANDARDS (M-1)**

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Use standards for the M-1 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

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**6.5.3 DEVELOPMENT REQUIREMENTS (M-1)**

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**6.5.3.1 LOT CONFIGURATION STANDARDS (M-1)**

---

A) MINIMUM LOT SIZE

Minimum lot size in the M-1 district varies according to use as below:

- 1) Single-Family Residential – Three thousand (3,000) square feet
- 2) Duplexes – Four thousand (4,000) square feet
- 3) Multi-Family Residential – Three-thousand (3,000) square feet
- 4) Non-Residential or Mixed-Use – Three-thousand (3,000) square feet

B) MINIMUM LOT WIDTH

Minimum lot width in the M-1 district varies according to use as below:

- 1) Single-Family Residential – Fifty (50) feet
- 2) Duplexes – Seventy five (75) feet
- 3) Multi-Family Residential – Thirty (30) feet
- 4) Non-Residential or Mixed-Use – Thirty (30) feet

C) FRONT SETBACK

Minimum front setback in the M-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Ten (10) feet
- 2) Multi-Family Residential –Fifteen (15) feet
- 3) Non-Residential or Mixed-Use – Zero

D) MAXIMUM FRONT SETBACK

Maximum front setback in the M-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Twenty (20) feet
- 2) Multi-Family Residential –Twenty (20) feet

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- 3) Non-Residential or Mixed-Use – Ten (10) feet

### E) SIDE YARD

Minimum side yard in the M-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Five (5) feet
- 2) Multi-Family Residential – Eight (8) feet
- 3) Non-Residential or Mixed-Use – Five (5) feet, except the minimum side yard requirements do not apply to attached structures (zero setback in that case).

### F) REAR YARD

Minimum rear yard in the M-1 district varies according to use as below:

- 1) Single-Family Residential and Duplexes– Twenty (20) feet
- 2) Multi-Family Residential – Twenty five (25) feet
- 3) Non-Residential or Mixed-Use – Ten (10) feet

### G) MAXIMUM LOT COVERAGE

Maximum lot coverage in the M-1 district varies according to use as below:

- 1) Single-Family Residential Duplexes– Sixty (60) percent
- 2) Multi-Family Residential – Seventy (70) percent
- 3) Non-Residential or Mixed-Use – Ninety (90) percent

### H) MAXIMUM IMPERVIOUS SURFACE

Maximum lot coverage in the M-1 district varies according to use as below:

- 1) Single-Family Residential Duplexes– Seventy-five (75) percent
- 2) Multi-Family Residential – Eighty-five (85) percent
- 3) Non-Residential or Mixed-Use – One hundred (100) percent

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### **6.5.3.2 PRINCIPAL STRUCTURE STANDARDS (M-1)**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height in the M-1 district varies per use as follows:

- 1) Single-family residential and duplexes – Two and a half (2.5) stories or thirty-five (35) feet
- 2) Multi-Family residential uses – Three (3) stories or forty-two (42) feet
- 3) All other uses – Three (3) stories or forty-two (42) feet

#### B) MINIMUM FLOOR AREA PER UNIT

The minimum floor area per unit in the M-1 district varies per use as follows:

- 1) Single-family residential – Eight hundred (800) square feet per single unit
- 2) Duplex – Six hundred (600) square feet per single unit
- 3) Multi-Unit Dwelling – Five hundred (500) square feet per single unit
- 4) All other uses – No minimum floor area required.

### **6.5.3.3 ACCESSORY STRUCTURE STANDARDS (M-1)**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the M-1 district is twenty-four (24) feet with the minimum setbacks as listed in Section 6.5.3.3.B below. However, accessory structures with accessory dwelling units in the M-1 district may be up to thirty-five (35) feet in height, provided that the structure is setback an additional foot from all lot lines for each two (2) feet in height over twenty-four (24) feet.

#### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of five (5) feet from the side lot line.

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- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line, as close as three (3) feet to a rear lot line when the rear lot line is co-terminus with an alley.

C) **MAXIMUM SIZE OF ACCESSORY STRUCTURES**

Accessory structures in the M-1 district shall be no larger than the building footprint of the principal structure.

D) **MISCELLANEOUS ACCESSORY PROVISIONS**

No detached accessory structure shall be closer than eight (8) feet to a principal structure.

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### **6.5.4 MISCELLANEOUS PROVISIONS (M-1)**

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#### **6.5.4.1 OFF-STREET PARKING AND LOADING ZONE STANDARDS**

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- A) All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

#### **6.5.4.2 SCREENING STANDARDS**

---

- A) Proposed developments that create new streets shall place utility lines underground.
- B) The developer will install sidewalks according to Township standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

#### **6.5.4.3 SCREENING OF OUTDOOR STORAGE OF TRASH OR RUBBISH**

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- A) All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence or wall no less than six (6) feet high with solid closing doors.

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**SECTION 6.6 CORRIDOR MIXED-USE DISTRICT (M-2)**

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**6.6.1 INTENT AND GUIDING PRINCIPLES (M-2)**

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The *Corridor Mixed Use district* generally includes the areas adjacent to U.S. 2 which provide a concentrated and convenient location for larger regional- and local-serving auto-oriented uses. The area is characterized by development along a four-lane highway dominated by a mix of uses. Surface parking must be accommodated but is preferably located in the rear of the property or screened or buffered from view, especially if large equipment is displayed. Access is generally from the highway but shared access is encouraged to preserve highway safety and function. Uses are primarily office, commercial, and light industrial. The area is intended to incorporate various transportation modes, including all season non-motorized connections (i.e. sidewalks, pathways, and trails) to increase the ease, safety, and convenience of walking and bicycling from surrounding neighborhoods. Future development or redevelopment will include improvements to the pedestrian realm, bicycle network, road crossings, and landscaping. Redevelopment will include the addition of trees, landscaped buffers, and bio-retention areas to increase the view of the Township as a destination. Wayfinding signage to area attractions will be incorporated.

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**6.6.2 DISTRICT USE STANDARDS (M-2)**

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**6.6.2.1 USE MATRIX (PERMITTED, CONDITIONAL, SPECIAL)**

---

Use standards for the M-2 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

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**6.6.3 DEVELOPMENT REQUIREMENTS (M-2)**

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**6.6.3.1 LOT CONFIGURATION STANDARDS (M-2)**

---

A) MINIMUM LOT SIZE

Minimum lot size in the M-2 district is one (1) acre.

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B) MINIMUM LOT WIDTH

Minimum lot width in the M-2 district is three hundred (300) feet with direct access to U.S. 2 or one-hundred (100) feet with indirect or shared access.

C) FRONT SETBACK

Minimum front setback in the M-2 district is fifty (50) feet.

D) MAXIMUM FRONT SETBACK

Maximum front setback is one hundred (100) feet.

E) SIDE YARD

Minimum side yard in the M-2 district is ten (10) feet.

F) REAR YARD

Minimum rear yard in the M-2 district is thirty (30) feet.

G) MAXIMUM LOT COVERAGE

Maximum lot coverage in the M-2 district varies according to use as below:

- 1) Single-Family Residential Duplexes– Forty (40) percent
- 2) Multi-Family Residential – Fifty (50) percent
- 3) Non-Residential or Mixed-Use – Seventy (70) percent

H) MAXIMUM IMPERVIOUS SURFACE

Maximum impervious surface in the M-2 district varies according to use as below:

- 1) Single-Family Residential Duplexes– Fifty five (55) percent
- 2) Multi-Family Residential –Sixty five (65) percent



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- 3) Non-Residential or Mixed-Use – Eighty five (85) percent

### **6.6.3.2 PRINCIPAL STRUCTURE STANDARDS (M-2)**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height in the M-2 district is two and a half (2.5) stories or thirty five (35) feet.

#### B) MINIMUM FLOOR AREA PER UNIT

The minimum floor area per unit in the M-2 district varies per use as follows:

- 1) Single-family residential – One thousand (1,000) square feet per single unit
- 2) Duplexes – Eight hundred (800) square feet per single unit
- 3) Multi-Unit Dwelling – Six hundred (600) square feet per single unit
- 4) Non-residential or Mixed-Use – No minimum floor area per unit requirement

### **6.6.3.3 ACCESSORY STRUCTURE STANDARDS (M-2)**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the M-2 district is eighteen (18) feet.

#### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of ten (10) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

#### C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the M-2 district shall be no larger than the building footprint of the principal structure.

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### D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than ten (10) feet to a principal structure.

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#### **6.6.4 MISCELLANEOUS PROVISIONS (M-2)**

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##### **6.6.4.1 OFF-STREET PARKING AND LOADING ZONE STANDARDS**

---

- A) All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

##### **6.6.4.2 SCREENING STANDARDS**

---

- A) Proposed developments that create new streets shall place utility lines underground.
- B) The developer will install sidewalks according to Township standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

##### **6.6.4.3 SCREENING OF OUTDOOR STORAGE OF TRASH OR RUBBISH**

---

- A) All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence or wall no less than six (6) feet high with solid closing doors.

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### **SECTION 6.7 RESORT MIXED USE DISTRICT (M-3)**

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#### **6.7.1 INTENT AND GUIDING PRINCIPLES (M-3)**

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The *Resort Mixed-Use district* combines commercial and residential uses and services for families or tourists utilizing the Township resort facilities. Uses may include residential (various densities and types), entertainment, recreation, convenience goods, restaurants, lodging, small gift shops, outdoor equipment dealers, rentals, and personal services. Uses will be appropriately buffered to preserve the natural scenic landscape. Uses located adjacent to a water resource will be subject to water quality protection standards.

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### **6.7.2 DISTRICT USE STANDARDS (M-3)**

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#### **6.7.2.1 USE MATRIX (PERMITTED, CONDITIONAL, SPECIAL)**

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Use standards for the M-3 district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

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### **6.7.3 DEVELOPMENT REQUIREMENTS (M-3)**

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#### **6.7.3.1 LOT CONFIGURATION STANDARDS (M-3)**

---

##### A) MINIMUM LOT SIZE

Minimum lot size in the M-3 district varies according to use as below:

- 1) Single-Family Residential – Three thousand (3,000) square feet
- 2) Duplexes – Four thousand (4,000) square feet
- 3) Multi-Family Residential – Five thousand (5,000) square feet
- 4) Non-Residential or Mixed-Use – Three thousand (3,000) square feet
- 5) Without public sewer/water – Twenty five thousand (25,000) square feet

##### B) MINIMUM LOT WIDTH

Minimum lot width in the M-3 district varies according to use as below:

- 1) Single-Family Residential – Fifty (50) feet
- 2) Duplexes – Seventy-five (75) feet
- 3) Multi-Family Residential – Seventy-five (75) feet
- 4) Non-Residential or Mixed-Use – Thirty (30) feet
- 5) Without public sewer/water – One hundred and Fifty (150) feet

##### C) FRONT SETBACK

Minimum front setback in the M-3 district varies according to use as below:

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- 1) Single-Family Residential and duplexes – Fifteen (15) feet
- 2) Multi-Family Residential – Twenty (20) feet
- 3) Non-Residential or Mixed-Use – Ten (10) feet

### D) MAXIMUM FRONT SETBACK

Maximum front setback in the M-3 district is twenty five (25) feet.

### E) SIDE YARD

Minimum side yard requirement in the M-3 district is eight (8) feet. Side yard setback does not apply to attached dwellings of a non-residential or mixed-use.

### F) REAR YARD

The rear yard requirement in the M-3 district varies according to use as below:

- 1) Single-Family Residential and duplexes – Twenty five (25) feet
- 2) Multi-Family Residential – Thirty (30) feet
- 3) Non-Residential or Mixed-Use – fifteen (15) feet

### G) MAXIMUM LOT COVERAGE

Maximum lot coverage in the M-3 district varies by use as follows:

- 1) Single-Family Residential and Duplexes– Fifty (50) percent
- 2) Multi-Family Residential – Sixty (60) percent
- 3) Non-Residential or Mixed-Use – Eighty (80) percent

### H) MAXIMUM IMPERVIOUS SURFACE

Maximum impervious surface in the M-3 district varies by use as follows:

- 1) Single-Family Residential and Duplexes– Sixty-five (65) percent
- 2) Multi-Family Residential – Seventy-five (75) percent
- 3) Non-Residential or Mixed-Use –Ninety-five (95) percent

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### **6.7.3.2 PRINCIPAL STRUCTURE STANDARDS (M-3)**

---

#### A) MAXIMUM HEIGHT

Maximum height in the M-3 district varies by use as follows:

- 1) Single-Family Residential and Duplexes – Two and a half (2.5) stories or thirty-five (35) feet
- 2) Multi-Family Residential – Three (3) stories or forty-two feet
- 3) Non-Residential or Mixed-Use – Two (2) stories or thirty-five (35) feet

#### B) MINIMUM FLOOR AREA

Minimum floor area per unit in the M-3 district varies by use as follows:

- 1) Single-Family Residential – Seven hundred (700) square feet
- 2) Duplexes – Six hundred (600) square feet
- 3) Multi-Family Residential – Five hundred (500) square feet
- 4) Non-Residential or Mixed-Use – No minimum floor area required

### **6.7.3.3 ACCESSORY STRUCTURE STANDARDS (M-3)**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the M-3 district is twenty-four (24) feet with the minimum setbacks as listed in Section 6.7.3.3.B below. However, accessory structures with accessory dwelling units in the M-3 district may be up to thirty-five (35) feet in height, provided that the structure is setback an additional foot from all lot lines for each two (2) feet in height over twenty-four (24) feet.

#### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of five (5) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

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### C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the M-3 district shall be no larger than the building footprint of the principal structure.

### D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than eight (8) feet to a principal structure.

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## **6.7.4 MISCELLANEOUS PROVISIONS (M-3)**

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### **6.7.4.1 OFF-STREET PARKING AND LOADING ZONE STANDARDS**

- A) All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every five (5) automobile parking spaces.

---

### **6.7.4.2 SCREENING STANDARDS**

- A) Proposed developments that create new streets shall place utility lines underground.  
B) The developer will install sidewalks according to Township standards. Sidewalks shall be separated from the roadway to protect pedestrians from the spray of slush and water from passing cars.

---

### **6.7.4.3 SCREENING OF OUTDOOR STORAGE OF TRASH OR RUBBISH**

- A) All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence or wall no less than six (6) feet high with solid closing doors.

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## **SECTION 6.8 INDUSTRIAL DISTRICT (I)**

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### **6.8.1 INTENT AND GUIDING PRINCIPLES**

The *Industrial district* includes industrial service and manufacturing firms which engage in intense scale or volume of activity and may store materials or vehicles outdoors. Few customers, especially the general public, come to the site. These areas are characterized by the presence of heavy machinery, building materials, and raw materials for processing and storage, and the utilization of chemicals and intense processes.

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### **6.8.2 DISTRICT USE STANDARDS (I)**

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### **6.8.2.1 USE MATRIX (PERMITTED, CONDITIONAL, SPECIAL)**

Use standards for the I district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

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### **6.8.3 DEVELOPMENT REQUIREMENTS (I)**

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#### **6.8.3.1 LOT CONFIGURATION STANDARDS**

A) MINIMUM LOT SIZE

Minimum lot size in the Industrial district is one (1) acre or 43,560 square feet.

B) MINIMUM LOT WIDTH

Minimum lot width in the Industrial district is one-hundred fifty (150) feet.

C) FRONT SETBACK

Minimum front setback in the I district is twenty (20) feet. Maximum front setback in the I district is sixty-five (65) feet (allowing for only one row of appropriately screened front parking in this district).

D) SIDE YARD

Minimum side yard in the Industrial district is twenty (20) feet.

E) REAR YARD

Minimum rear yard in the Industrial district is thirty (30) feet, except that the Zoning Administrator may authorize an administrative departure for up to ten (10) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

F) MAXIMUM LOT COVERAGE

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The maximum lot coverage in the Industrial district is seventy-five (75) percent.

### G) MAXIMUM IMPERVIOUS SURFACE COVERAGE

The maximum impervious surface coverage in the Industrial district is eighty-five (85) percent.

### **6.8.3.2 PRINCIPAL STRUCTURE STANDARDS**

---

#### A) MAXIMUM HEIGHT

The maximum permitted height in the Industrial district is forty-two (42) feet.

#### B) MINIMUM FLOOR AREA PER UNIT

There is no minimum floor area per unit in the Industrial district.

### **6.8.3.3 ACCESSORY STRUCTURE STANDARDS**

---

#### A) MAXIMUM HEIGHT

Accessory structures in the Industrial district shall be no taller than the principal structure.

#### B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of twenty (20) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of thirty (30) feet from the rear lot line.

#### C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the I district shall be no larger than the building footprint of the principal structure.



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### D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than ten (10) feet to a principal structure.

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#### **6.8.4 MISCELLANEOUS PROVISIONS (I)**

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##### **6.8.4.1 OFF-STREET PARKING AND LOADING ZONE STANDARDS**

---

- A) All non-residential developments which provide automobile parking facilities shall provide bicycle parking facilities (racks) at a ratio of at least one (1) bicycle parking space for every ten (10) automobile parking spaces.

##### **6.8.4.2 STREETScape STANDARDS**

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- A) Proposed developments that create new streets shall place utility lines underground.

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### **SECTION 6.9 CONSERVATION AND RECREATION DISTRICT (CR)**

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#### **6.9.1 INTENT AND GUIDING PRINCIPLES (CR)**

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The *Conservation Recreation district* includes lands primarily used for public conservation and preservation of natural resources for sustainable forestry management, with balanced protection for sensitive environmental areas and habitats. This district is intended to serve as protection for timberlands, recreation lands, and wetlands. It is also for uses compatible with natural resources, such as low impact recreation, hunting camps, trails, and wildlife areas. The primary function of this land is for conservation or recreation purposes.

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#### **6.9.2 DISTRICT USE STANDARDS (CR)**

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##### **6.9.2.1 USE MATRIX (PERMITTED, CONDITIONAL, SPECIAL)**

---

Use standards for the CR district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

---

**6.9.3 DEVELOPMENT REQUIREMENTS (CR)**

---

**6.9.3.1 LOT CONFIGURATION STANDARDS**

---

A) MINIMUM LOT SIZE

Minimum lot size in the CR district is ten (10) acres.

B) MINIMUM LOT WIDTH

Minimum lot width in the CR district is one hundred (100) feet.

C) FRONT SETBACK

Minimum front setback in the CR district is twenty-five (25) feet. There is no maximum front setback in the CR district.

D) SIDE YARD

Minimum side yard in the CR district is fifteen (15) feet.

E) Rear Yard

Minimum rear yard in the CR district is twenty-five (25) feet, except that the Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

F) MAXIMUM LOT COVERAGE

There is no maximum lot coverage requirement in the CR district.

G) MAXIMUM IMPERVIOUS SURFACE COVERAGE

There is no maximum impervious surface requirement in the CR district.

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### **6.9.3.2 PRINCIPAL STRUCTURE STANDARDS**

---

A) MAXIMUM HEIGHT

The maximum permitted height in the CR district is two (2) stories or thirty-five (35) feet.

B) MINIMUM FLOOR AREA PER UNIT

There is no minimum floor area per unit in the CR district.

### **6.9.3.3 ACCESSORY STRUCTURE STANDARDS**

---

A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the CR district is eighteen (18) feet.

B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of five (5) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the CR district shall be no larger than the building footprint of the principal structure.

D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than eight (8) feet to a principal structure.

### **6.9.4 MISCELLANEOUS PROVISIONS (CR)**

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For additional standards, see Article 5.

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**SECTION 6.10 FOREST RESERVE DISTRICT (FR)**

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**6.10.1 INTENT AND GUIDING PRINCIPLES (FR)**

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The *Forest Reserve* future zoning district includes lands primarily used for forest management, recreation, and preservation of natural resources and sensitive environmental areas. This area is for uses that are compatible with natural resources, such as low impact recreation, hunting camps, trails, greenbelts, wildlife habitat, scenic areas, forest and wildlife management. Existing residential uses are accommodated at a very low density, but further subdivision of lands is not encouraged so as to maintain the integrity of the land for productive and conservation purposes. These lands are generally in close proximity to publicly owned conservation/recreation lands or are currently maintained in Commercial Forest Reserve. Environmentally-conscious regulations are intended to protect water quality and sensitive environmental resources by providing a buffer of low-intensity uses. This district was formerly in the Recreational, Agriculture, Forestry (RAF) district.

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**6.10.2 DISTRICT USE STANDARDS (FR)**

---

**6.10.2.1 USE MATRIX (PERMITTED, CONDITIONAL, SPECIAL)**

---

Use standards for the FR district are illustrated in Table 4-1 in Section 4.2 of this Ordinance. Conditional and Special Land Use standards are located in Article 9 and in Article 14.

---

**6.10.3 DEVELOPMENT REQUIREMENTS (FR)**

---

**6.10.3.1 LOT CONFIGURATION STANDARDS**

---

A) MINIMUM LOT SIZE

Minimum lot size in the FR district is ten (10) acres.

B) MINIMUM LOT WIDTH

Minimum lot width in the FR district is one hundred (100) feet.

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C) FRONT SETBACK

Minimum front setback in the FR district is twenty-five (25) feet. There is no maximum front setback in the FR district.

D) SIDE YARD

Minimum side yard in the FR district is fifteen (15) feet.

E) REAR YARD

Minimum rear yard in the FR district is twenty-five (25) feet, except that the Zoning Administrator may authorize an administrative departure for up to five (5) feet in a rear yard setback to accommodate individual site conditions, such as mature trees, topography, or other similar physical condition.

F) MAXIMUM LOT COVERAGE

There is no maximum lot coverage requirement in the FR district.

G) MAXIMUM IMPERVIOUS SURFACE COVERAGE

There is no maximum impervious surface requirement in the FR district.

### **6.10.3.2 PRINCIPAL STRUCTURE STANDARDS**

---

A) MAXIMUM HEIGHT

The maximum permitted height in the FR district is two (2) stories or thirty-five (35) feet.

B) MINIMUM FLOOR AREA PER UNIT

There is no minimum floor area per unit in the FR district.

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### **6.10.3.3 ACCESSORY STRUCTURE STANDARDS**

---

A) MAXIMUM HEIGHT

The maximum permitted height of accessory structures in the FR district is eighteen (18) feet.

B) MINIMUM SETBACK FROM LOT LINES

- 1) Front Lot Line – Accessory structures are not allowed in the front setback area. The front setback of accessory structures must be equal to or greater than that of the principal structure on the site.
- 2) Side Lot Lines – Accessory structures must be placed a minimum distance of five (5) feet from the side lot line.
- 3) Rear Lot Line – Accessory structures must be placed a minimum distance of ten (10) feet from the rear lot line.

C) MAXIMUM SIZE OF ACCESSORY STRUCTURES

Accessory structures in the FR district shall be no larger than the building footprint of the principal structure.

D) MISCELLANEOUS ACCESSORY PROVISIONS

No detached accessory structure shall be closer than eight (8) feet to a principal structure.

---

### **6.10.4 MISCELLANEOUS PROVISIONS (FR)**

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For additional standards, see Article 5.

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## **ARTICLE 7: SCHEDULE OF REGULATIONS – OVERLAY ZONING DISTRICTS**

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### **SECTION 7.1 RESOURCE PROTECTION OVERLAY ZONE (RPZ)**

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#### **7.1.1 INTENT AND GUIDING PRINCIPLES**

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In establishing this overlay district, Bessemer Township recognizes that the economic and environmental well being of the community, and the health, safety, and general welfare of the people of Bessemer Township is dependent on, and connected with, the preservation of natural areas near the lakes, rivers, streams, and bluffs. The specific intent of the overlay zone is to:

- Protect riparian and aquatic ecosystems and their chemical, physical, biological, economic, and social attributes.
- Prevent the degradation of water quality or excessive unnatural sedimentation into lakes, rivers and streams by protecting sensitive areas around lakes, rivers, streams, wetlands and floodplains in the Township.
- Provide for the infiltration of stormwater runoff to remove pollutants before they negatively impact water resources.
- Maintain the base flow of water courses.
- Protect the integrity of the steep slopes and bluffs that provide scenic views of the Township and are a distinctive and valuable natural feature in Bessemer Township.
- To minimize bluff instability to avoid the erosion, undermining, slumping, or collapse of steep slopes.
- Preserve maintenance-free native vegetation and protect natural features including trees, wildlife habitat, and environmentally sensitive areas within the overlay zone.
- Preserve the tree canopy to shade streams and promote desirable aquatic organisms.
- Contribute to the organic matter that is a source of food and energy for the aquatic ecosystem.
- Encourage coordination between local government, county, state, federal, and tribal agencies concerned with natural resources.
- Assist landowners and developers to implement more sustainable land management practices.
- To supplement other laws and regulations impacting the protected areas.

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#### **7.1.2 SUB-DISTRICT BOUNDARIES**

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The Resource Protection Overlay Zone is shown in general as the black dot area on the Official Zoning Map of Bessemer Township. It generally includes all lands adjacent to inland lakes, steep slope areas and riparian areas along the Black River and its tributaries, as well as, Moraine Lake, Marell Lake, Chaney Lake and other smaller lakes in the Township. The provisions of this Article apply in addition to all

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the provisions of the underlying zoning districts and other applicable general standards of this *Ordinance*. In the event that regulations imposed by this Article conflict with regulations of an underlying zoning district, the regulations established by this Article shall prevail to the extent of the conflict and no further. The Zoning Administrator shall make a determination regarding the application of the boundaries based on the data supplied by the applicant or a qualified professional specializing in a profession related to the natural resource of concern, environmental science, or natural resource management.

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### **7.1.3 APPLICABILITY**

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Protected features within the Resource Protection Overlay Zone shall include native vegetation, woodlands, sensitive geological and hydrological features, wetlands, riparian (river and stream) corridors, wildlife corridors, and other sensitive natural features. These features have one or more of the following characteristics:

- Contains a high degree of native biodiversity and few exotics, or a strong potential for restoration as such;
- Contains or is adjacent to a wetland, river, or stream and is critical in maintaining water quality, rare species habitat, or flood control;
- Contributes significantly to biological or hydro-geological functions such as wildlife habitat, air purification, wellhead protection, sediment and erosion control, or flood control and acts as a buffer between development and natural areas.
- Contains valuable natural resources that can, if sustainably managed, enhance local economic vitality and economic diversity, but that may be threatened by development or other uses.
- Offers high quality opportunities for recreation, tourism, or interpretive educational opportunities that would be degraded by other forms of development.

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### **7.1.4 DEVELOPMENT REQUIREMENTS**

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Development standards shall be consistent with all the following goals:

- Encourage sensitive development while minimizing impact on resources such as native vegetation, tree cover, healthy water habitats, stream corridors, wildlife corridors, rock outcroppings, and scenic topographic features; or negatively impacting sensitive environmental areas such as steep slopes, wetlands, and floodplains.
- Provide clear limitations on disturbance within resource areas;
- Provide tree protection, increased vegetation, and soil erosion control measures within the protection zone;
- Buffer the protected features from noise, fumes, lights, and motion of vehicular traffic associated with industrial, commercial, and multi-unit dwellings;
- Manage public access so as to minimize intrusion and negative impact on the natural resources;



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- Avoid extreme fluctuations of water levels or unnatural changes in water temperature or currents that may have significant impact on endangered or valued recreational species;
- Does not detrimentally impact existing water quality including chemical, biological, and turbidity characteristics of any water body or water course.
- Eliminate possibility of exposure to pollutants that disturb plants, animals, or water resources.

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### **7.1.5 LOT CONFIGURATION STANDARDS**

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#### **7.1.5.1 SETBACKS**

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##### **A) PROPERTIES ADJACENT TO INLAND LAKES**

For properties adjacent to inland lakes, the following setback requirements shall apply (this does not apply to pump houses, recreational docks, stormwater and erosion control devices, picnic tables, benches, recreational watercraft, wooden stairways, and unpaved walkways):

- 1) No structure shall be allowed within seventy-five (75) feet of the ordinary high water mark (OHWM) of a navigable waterbody;
  - a. Exceptions to the 75-foot setback from the OHWM of a navigable waterbody:
    - i. Where one of more lots are occupied by a dwelling or principal building and the OHWM setbacks of the existing dwelling or principal building are less than the OHWM setback as required in section 7.1.5.1.A(1), the OHWM setback of the proposed dwelling or principal structure and proposed open deck or patio shall be the average of seventy-five (75) feet and the setback of each existing dwelling or principal structure located ninety (90) feet or less from the OHWM and within two hundred (200) feet of the nearest part of the proposed dwelling or principal structure. An OHWM setback of less than forty (40) feet shall not be allowed.
    - ii. The combined total square footage of all proposed and existing decks and patios located within seventy-five (75) feet of the OHWM cannot exceed two hundred (200) square feet.
- 2) On lots with a line of mature forested vegetation within one-hundred (100) feet of the ordinary high water mark, the lakeshore side of the principal structure shall be set back at least twenty (20) feet landward from the edge of predominantly forested vegetation.

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- 3) If a greater setback is required under the provisions of any state or federal law than is required by this section, then such greater setback requirement shall apply.
- 4) Where the imposition of the setbacks above precludes the location of a dwelling or other primary structure, the applicant may request a variance according to the procedures in Article 14 however, no variance shall be granted for any use or structure in violation of the intent and purpose of this Article.

### B) Setbacks (Buffers) From Riparian (river or stream) Systems

For properties adjacent to rivers and streams in the Resource Protection Overlay Zone, structures shall be setback as required by the front setback, side yard, and rear yard standards of the underlying zoning district, except that the prescribed setback shall be measured from the edge of the riparian buffer as calculated in Section 7.1.7, rather than from the property line.

### **7.1.5.2 MAXIMUM IMPERVIOUS SURFACE COVERAGE**

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Maximum impervious surface coverage in the Resource Protection Overlay zone is as follows:

- A) Areas with average slopes up to ten (10) percent shall be governed by the impervious surface coverage requirements of the underlying zoning district.
- B) Areas with average slopes between ten (10) and twenty-five (25) percent shall not exceed an impervious surface coverage of twenty-five (25) percent.
- C) Areas with average slopes twenty-five (25) percent or greater shall be preserved in their natural state and maintained as permanent open space.

### **7.1.5.3 DOCK REGULATIONS**

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Inland lakes and their shorelines provide natural beauty and are biologically the most productive and an important recreation resource. Excessive or inappropriate construction of docks and recreation structures in Bessemer Township's waterways may have a substantial cumulative effect on public rights and interests in those waters. These requirements are intended to minimize the adverse effects of such construction and to reduce conflict between adjacent or nearby property owners.

#### A) GENERAL REGULATIONS:

##### 1) Number of Docks

For each lot, no more than one (1) dock shall be allowed or installed per one hundred (100) feet of shoreline frontage.

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- 2) **Ownership Identification**  
The owners of a floating raft, float, trampoline or swim platform shall place light reflecting devices at each corner of the raft or platform that makes the item clearly visible during nighttime navigation and a three (3) inch by five (5) inch permanent sign or placard on such item that conspicuously identifies the property address, and current owners name and phone number.
- 3) **Size and Location**  
Floating rafts, trampolines, floats, or platforms with an exposed surface areas exceeding eighty-five (85) square feet or twelve (12) feet in diameter, or any measurement exceeding twelve (12) feet shall not be anchored, placed or used in the water body. Docks, floating rafts, trampolines, floats, or platforms shall not be located in an area where they present a safety hazard to watercraft.
- 4) **Dock Width**  
The deck width of a dock, including “T” or “L” or similar finger extensions, may not exceed six (6) feet, except when the owner demonstrates a need for a deck width of up to eight (8) feet because of the handicap of a frequent user.
- 5) **Dock Length**  
No dock shall extend more than the length needed to reach a depth of three (3) feet or the depth required to dock a boat, measured perpendicularly from the shoreline.
- 6) **Setback**  
No dock shall be placed within twelve (12) feet of the side lot lines as extended to the center of the lake.

### B) STATE REGULATIONS:

Docks are also regulated by the State of Michigan. All docks within the Township are required to meet all State of Michigan regulations as well as, township ordinance requirements. This section of the Ordinance does not supersede requirements established by the State of Michigan.

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### **7.1.6 SPECIAL USE STANDARDS**

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The following land uses are designated as potential water pollution hazards, and must be set back from any stream or waterbody by the specified distance, provided they are a permitted use in the underlying zoning district (see additional standards for conditional or special uses in *Article 9*):

- 7.1.6.1** *Storage of hazardous substances* – Setback one-hundred fifty (150) feet
- 7.1.6.2** *Above ground or underground petroleum storage facilities* – Setback one-hundred fifty (150) feet
- 7.1.6.3** *Drainfields from onsite sewage disposal and treatment systems (i.e. septic systems)* – Setback one-hundred (100) feet

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- 7.1.6.4 *Raised septic systems* – Setback two-hundred fifty (250) feet
- 7.1.6.5 *Solid waste landfills or junkyards* – Setback three-hundred (300) feet
- 7.1.6.6 *Confined animal feedlot operations* – Setback two-hundred fifty (250) feet
- 7.1.6.7 *Subsurface discharges from a wastewater treatment plant* – Setback one-hundred (100) feet
- 7.1.6.8 *Land application of biosolids* – Setback one-hundred (100) feet
- 7.1.6.9 *Compost piles, manures/fertilizers, motor vehicles* (not including motorized boats) shall not be located within the prescribed waterfront setback of Section 7.1.5.1.

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### **7.1.7 RIPARIAN BUFFER STANDARDS**

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A riparian buffer for a stream or river system shall consist of a vegetated strip of land at least fifty (50) foot wide extending along both sides of the water course, and including adjacent wetlands or steep slopes. The buffer shall consist of two distinct zones, configured as follows:

#### **7.1.7.1 ZONE 1: STREAMSIDE ZONE**

Zone 1: Streamside Zone, begins at the edge of the active channel of the water course and extends twenty-five (25) feet landward plus any extensions as specified in Section 7.1.7.3.

##### **A) PERMITTED USES ZONE 1**

- 1) Flood control structures
- 2) Utility right-of-ways
- 3) Unpaved footpaths
- 4) Road crossings where permitted

##### **B) PROHIBITED USES ZONE 1**

- 1) Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.
- 2) Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)
- 3) Presence of livestock
- 4) Use of motor vehicles
- 5) Construction of permanent structures

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### C) STANDARDS FOR VEGETATION

- 1) Vegetation shall not be altered, compacted, or built upon or used for wetland mitigation areas in this area, except that individual trees that must be cut due to disease shall be replaced.

### **7.1.7.2 ZONE 2: OUTER ZONE**

Zone 2: Outer Zone, begins at the outer edge of the Streamside Zone and extends twenty-five (25) feet landward plus any extensions as specified in Section 7.1.7.3.

### A) PERMITTED USES ZONE 2

- 1) Flood control structures
- 2) Utility right-of-ways
- 3) Unpaved footpaths
- 4) Road crossings where permitted
- 5) Surfaced biking or hiking paths
- 6) Approved stormwater management facilities
- 7) Approved recreation facilities

### B) PROHIBITED USES ZONE 2

- 1) Soil disturbance (grading, stripping, filling, dumping), except minor filling or grading for the establishment of shoreline access paths.
- 2) Use of pesticide or fertilizer (except for management of invasive species as approved by the planning commission in consultation with the appropriate agency)
- 3) Presence of livestock
- 4) Use of motor vehicles
- 5) Construction of permanent structures

### C) STANDARDS FOR VEGETATION

- 1) Mature tree cover may be removed, however, the shrub and herbaceous ground cover layers shall be retained to allow infiltration of run-off.

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### **7.1.7.3 EXTENSIONS TO MINIMUM BUFFER WIDTH**

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The fifty (50) foot combined buffer zone above shall be extended to include wetlands or steep slopes as follows:

A) WETLANDS

When wetlands are present, the width of the Streamside Zone shall be increased beyond the standards in Section 7.1.7.1 to include the extent of the wetland plus twenty (20) feet beyond the wetland edge.

B) PERCENT SLOPE

The riparian buffer width shall be modified if steep slopes are within close proximity to the stream and drain into the stream system. The following extensions shall be added to the standard fifty (50) foot buffer in relation to slope.

- 1) Slopes of fifteen (15) to seventeen (17) percent, add ten (10) feet for a total buffer width of sixty (60) feet.
- 2) Slopes of eighteen (18) to twenty (20) percent, add thirty (30) feet for a total buffer width of eighty (80) feet.
- 3) Slopes of twenty-one (21) to twenty-three (23) percent, add fifty (50) feet for a total buffer width of one-hundred (100) feet.
- 4) Slopes of twenty-one (21) and greater, add fifty (50) feet for a total buffer width of one-hundred (100) feet.

### **7.1.8 TREE PROTECTION STANDARDS**

---

**7.1.8.1** These standards apply to lots that contain the overlay zone:

- A) Development shall be designed so that the maximum number of trees is preserved by the clustering of structures in existing cleared areas and natural clearings.
- B) Grading, contouring, and paving may not detrimentally affect the root zone aeration and stability of existing trees.
- C) Development shall not reduce the existing crown cover greater than thirty (30) percent.
- D) The removal of trees seriously damaged by storms or other acts of God, or diseased trees, is permitted.
- E) In cases where native vegetation does not exist within a buffer zone, the landowner is encouraged to replant the buffer zone with native plant species.

### **7.1.9 LIGHTING STANDARDS**

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**7.1.9.1** Lighting shall not be directed into the resource protection overlay zone so that natural migrating, feeding, and breeding habits of wildlife shall not be disrupted.

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**7.1.9.2** Paths or gardens shall be lighted sparingly with the lowest amount of light necessary to see foliage and terrain, bulbs will be shielded, and lights will be turned off when the area is not in use.

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### **7.1.10 PUBLIC FACILITIES AND USE STANDARDS**

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**7.1.10.1** Except for unpaved footpaths for public access to a water body, trails shall not be placed between the tops of banks of water bodies.

**7.1.10.2** Except for recreational trails or approved permeable paver systems, paved areas shall be at least ten (10) feet from a resource area.

**7.1.10.3** Septic drainage fields shall be located at least twenty-five (25) feet from the riparian buffer.

**7.1.10.4** The placement of breakwalls, seawalls, bulkheads, broken concrete or other rubble, rock riprap, or other shoreline hardening along the shorelines shall be prohibited. The installation and use of bioengineering and biotechnical shoreline stabilization approaches with pervious surfaces for boat ramps is encouraged.

**ARTICLE 8: RESERVED FOR FUTURE USE**

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## **ARTICLE 9:     CONDITIONAL AND SPECIAL LAND USE REGULATIONS**

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### **SECTION 9.1     BASIS FOR REGULATIONS**

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As provided in the *Michigan Zoning Enabling Act, PA 110 of 2006*, site plans for Conditional Land Uses, Special Land Uses, Planned Unit Developments, condominium projects, variances, or other discretionary decisions may be approved with reasonable conditions that are 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 ensure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

- Be designed to protect the air, water and other natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners adjacent to the proposed land use or activity, and the community as a whole.
- Be related to the valid exercise of the police power, and to the proposed use or activity.
- Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
- Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.

### **SECTION 9.2     PURPOSE**

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The purpose of this Article is to establish criteria that shall be applied in the determination of requests for Conditional and Special Land Uses, as explained in Article 4 and identified in Tables 4-1 and 4-2. Application, review, and approval procedures can be found in Article 14. The criteria for decision and requirements set forth in this Article shall be in addition to those required elsewhere in this Ordinance which apply to the use or location under consideration.

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**SECTION 9.3      STANDARDS FOR PRINCIPLE CONDITIONAL AND SPECIAL LAND USES**

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The following standards apply to Conditional and Special Land Uses permitted in this *Ordinance*, in addition to any other applicable standards or regulations, such as those in Article 14:

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**9.3.1            AGRICULTURAL USES**

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The purpose of these regulations includes supporting local food production for the purpose of enhanced food security, increased sustainability of the local food supply, more resilient local economy, and improved health and safety of residents. These regulations help ensure the compatibility of agriculture with other uses. It is the intent of these regulations to encourage the use of public spaces such as residential front, side and rear yards; parks; church and school yards; rights-of-way; conservation easements; jointly owned spaces within developments; recreation areas; campuses; and vacant lots for local food production. This may be in the form of private gardens, fruit and nut trees, community gardens, edible landscaping, and limited small animal production. Development regulations seek to preserve solar access, control waste products, and mitigate potential nuisance impacts.

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**9.3.1.1        AGRICULTURAL SERVICE ESTABLISHMENTS**

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Agricultural service establishments (except animal services) permitted by Conditional Land Use Permit in the R-3 and M-2 Districts shall meet the following requirements:

- 1)      Shall meet all Health Department, USDA, and MDNRE/MDEQ standards, as applicable.
- 2)      If within three hundred (300) feet of a dwelling unit, the use must be screened and buffered as provided for in Section 5.6.5.
- 3)      No outdoor storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
- 4)      All lighting shall be down-shining and shielded from other properties and roadways.

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**9.3.1.2        ANIMAL SERVICES ESTABLISHMENTS**

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Animal Services Establishments (with completely indoor facilities) permitted by Conditional Land Use Permit in the R-3, M-2 and M-3 districts, and Animal Services Establishments (with unenclosed, outdoor confinement) permitted by Conditional Land Use Permit in the M-2 District and by Special Land Use permit in the R-3, R-4 and M-3 districts, shall meet the following requirements:

- 1)      Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.1.3.1.
- 2)      Odors or similar objectionable characteristics such as waste incident thereto shall not be discernible beyond the boundaries of the lot or premises.

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- 3) The kennel facility shall have waste disposal systems adequate to handle all animal waste generated by the facility at its maximum capacity without utilizing outdoor storage of wastes.
- 4) The kennel facility shall be designed, constructed, operated, and maintained in such a manner as to at all times provide humane, clean, dry, and sanitary conditions for each animal kept on the premises, including sufficient square footage for each animal, in accordance with applicable state laws and regulations, and the recommendations of the U.S. Department of Agriculture and the American Kennel Club.
- 5) A fully-enclosed kennel facility without any outside animal runs shall be located at least 50 feet from all boundary lines of any residential uses or districts.
- 6) Animal services facilities or kennels with outdoor (not fully enclosed) facilities must be in conformance with the following additional requirements:
  - a. Must be located at least 100 feet from all boundary lines of any residential uses (other than the owner) or districts.
  - b. Outside animal runs and/or outside dog exercise areas shall be sufficiently monitored such that any dog(s) engaging in repetitive barking shall be promptly brought inside.
  - c. A privacy fence six (6) feet in height meeting the standards of Section 5.6 and a landscape buffer meeting the requirements of Section 5.6.5 shall be installed around the perimeter of all the outdoor, unenclosed kennel facilities and exercise runs.

### **9.3.1.3 COMMERCIAL AGRICULTURE OR HORTICULTURE**

Refers to the commercial production, harvesting, and storage of farm products on a farm, and the farm operations typically attendant thereto, as “farm” is defined in the *Michigan Right to Farm Act*. Includes but is not limited to commercial nurseries, greenhouses, and aquaculture systems, etc. (Composting see Section 9.3.1.4) Commercial Agriculture and Horticulture operations (dairy and dairy products; poultry and poultry products; livestock breeding and grazing of cattle, swine, captive deer, equine, and similar animals; horse riding stables; nurseries; greenhouses; apiaries; annelic farms; mushrooms; aquaculture; fish hatcheries, similar agricultural enterprises; and the usual farm buildings associated with such uses) are permitted by Conditional Land Use Permit in the R-3 and R-4 districts and by Special Land Use Permit in the M-2, M-3, and CR Districts and Commercial Agricultural and Horticulture operations (Commercial production of biomass crops; forages and sod crops; grains; feed crops; field crops; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees, and other similar uses; and the usual farm buildings associated with such uses) are permitted by Condition Land Use Permit in the R-3, R-4, M-2, M-3, and CR Districts, shall meet the following requirements:

- A) Generally accepted agricultural and management practices (GAAMPs) according to policy determined by the Michigan Commission of Agriculture per the *Michigan Right to Farm Act, P.A. 93 of 1981, as amended*.
- B) Applicable provisions of the *Michigan Right to Farm Act, P.A. 93 of 1981, as amended*.
- C) Applicable provisions of the *Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended, MCL 324.101 to 324.90106*.

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- D) Applicable standards of the Health Department and MDNR/MDEQ.
- E) No outdoor storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
- F) Site shall be designed and maintained so that all wastes will not drain onto adjacent property.

### **9.3.1.4 COMPOSTING**

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Composting as a principal use of land or accessory to a commercial operation permitted by Conditional Land Use Permit in the R-3, R-4, and CR Districts shall meet the following requirements:

- A) The site shall be at least twenty (20) acres and have access from a paved road or high quality gravel road that is maintained in a quality condition.
- B) Compost piles shall be managed using contemporary best management practices that include measures to minimize odor, dust and windblown debris, rodents and other nuisance animals.
- C) No compost shall be located closer than six hundred-sixty (660) feet to any dwelling unit, church, school, other public gathering space or residential District.
- D) There shall be a plan for controlling water-ponding and runoff approved by the County Soil Erosion and Sedimentation Control officer.

### **9.3.1.5 SMALL SCALE FOOD PRODUCTION AND URBAN AGRICULTURE**

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#### A) COMMUNITY GARDENS AND URBAN GARDENS AS A PRINCIPAL USE

Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Such land may include available public land. Community Gardens permitted by Conditional Land Use permit in the R-1, R-2, AND M-3 Districts shall meet the following requirements:

- 1) The land shall be served by a water supply sufficient to support the cultivation practices used on the site.
- 2) Site users shall use raised beds with new soil or provide a Phase 1 Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening. Raised beds shall also be used if the ESA finds the proposed site to be contaminated.
- 3) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots in a fair and impartial manner according

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to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the Township.

- 4) The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.
- 5) There shall be no retail sales, except for produce grown on the site.
- 6) No building or structures shall be permitted on the site except sheds for storage of tools; greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated; chicken coops; benches; bike racks; raised/accessible planting beds; compost or waste bins; picnic tables; seasonal farm stands; fences; garden art; rain barrel systems; and children's play areas. The combined area of all buildings or structures shall not exceed 15 percent of the garden site lot areas.
- 7) Any signs shall comply with Section 5.7.
- 8) Any fences or screen on the site shall comply with Section 5.6.
- 9) The urban garden use shall be maintained, including necessary watering, pruning, pest control, and removal of dead or diseased plant material.
- 10) Detached accessory structures incidental to the urban garden use, such as accessory storage or utility buildings, gazebos, trellis, or accessory greenhouse structures are permitted subject to compliance with all applicable accessory structure regulations in Section 5.3.
- 11) Beekeeping is allowed as accessory to the urban garden use, limited to two hives per parcel. Hives must be located in the rear third of the lot with a five foot setback from side and rear lot lines. Hives must be screened so that the bees must surmount a six foot barrier, which may be vegetative, before leaving the property.

### **B) FARMER'S MARKETS**

Farmer's Markets and Food Stands permitted by Conditional Land Use Permit in the R-1, R-3, R-4, M-1, M-2, M-3, CR and FR Districts shall meet the following requirements:

- 1) All Farmer's Markets and their vendors shall receive all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmer's Market during all hours of operation.
- 2) All Farmer's Markets shall meet all Health Department, MDNRE/MDEQ, and public safety standards, as applicable.
- 3) All Farmer's Markets shall comply with the Generally Accepted Agricultural and Management Practices for Farm Markets established by the Michigan Department of Agriculture.
- 4) All lighting shall be down-shining and shielded from other properties and roadways.
- 5) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.
- 6) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.8.

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7) Signage will meet all requirements of Section 5.7.

### C) FOREST MANAGEMENT

Permitted by Conditional Land Use permit in the I and CR Districts; Sawmills are permitted by Special Land Use Permit in the R-3, R-4, and M-2 Districts and by Conditional Land Use permit in the I District, shall meet the following requirements:

- 1) Activities shall meet all applicable State and Federal Laws
- 2) All uses shall be enclosed by a fence, berm or suitable plantings six (6) feet or more in height along the road right-of-way and along the portions of the exposed periphery abutting a residential use or district, public recreation area, public facility, or public gathering places per the requirements of Section 5.6. No storage of equipment or materials may be located within the buffer area.
- 3) Routes shall be established for truck movement to and from the site in order to minimize the wear on public roads and to prevent hazards and damage to properties in the Township.

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## **9.3.2 COMMERCIAL & COMMERCIAL SERVICES USES**

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### **9.3.2.1 AUTO-ORIENTED COMMERCIAL USES**

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These uses are typically characterized by the dominance of motor vehicles in the landscape. Typical layouts of auto-oriented uses include large front parking or vehicular storage areas, gasoline canopies, and structures or lot layouts that are inconsistent with the scale, form, or function of a traditional neighborhood. There are typically few precedents or provisions for safe pedestrian or bicycle access. The following requirements are intended to fulfill the public and market needs for these uses while controlling the amount, spacing, and design of such uses so as to more effectively integrate them into the traditional fabric of the community. It is intended that these uses be located where such development most adequately serves the needs of the community's residents without creating excessive continuous strip development.

#### A) DRIVE-THROUGH ESTABLISHMENTS

Permitted with conditions in the M-1 and M-3 Districts, shall meet the following requirements:

- 1) An adequate number of outdoor trash receptacles shall be provided in convenient locations.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.

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- 3) Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
- 4) Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection.
- 5) There shall be at least two (2) temporary vehicle stopping spaces after the delivery window so motorists may prepare themselves for a safe exit onto the public roadway.
- 6) Whenever possible, on-site snow storage shall be accommodated in a number of smaller sites, rather than one large area, to speed up the melting process.
- 7) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 8) Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent sound or music from being audible beyond the boundaries of the site.

### **9.3.2.2 OTHER COMMERCIAL USES**

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#### **A) ENTERTAINMENT AND RECREATION ORIENTED COMMERCIAL USE**

Outdoor Commercial Recreation and Entertainment Establishments are permitted by Special Land Use Permit (depending on use, see Table 4-1) in the R-1, R-2, R-3, R-4, M-1, M-2, M-3, and CR Districts and by Conditional Land Use Permit (depending on use, see Table 4-1) in the R-3, R-4, M-2, M-3, CR and FR Districts. Indoor Entertainment Establishments are permitted by Conditional Land Use Permit in the R-1, R-3, M-1, M-3 and I Districts; shall meet the following requirements:

- 1) Shall be on an appropriate sized property to accommodate the activity, with on-site auto stacking and on-site parking. All commercial parking that is visible from the street shall be screened according to Section 5.5.13.
- 2) No building shall be located closer than fifty (50) feet to any property line in a residential district.
- 3) Buffering and screening is required per Section 5.6 to reduce noise and headlight glare onto adjoining residential uses.
- 4) If the use is located within two-hundred (200) feet of a Residential Zone District, outdoor public address systems and all types of amplified music or sound devices are prohibited.
- 5) All lighting shall be down-shining and shielded from adjoining properties and roadway per the requirements of Section 5.11.3.
- 6) Site shall be directly accessible from a major thoroughfare.
- 7) Signs shall meet the requirements of Section 5.7.
- 8) Facilities which have a capacity for greater than two-hundred (200) people must have favorable letters of review from the Gogebic County Sheriff, Fire Chief, and County Road Commission, or MDOT (as applicable).

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- 9) Operating hours shall be determined by the Planning Commission based on the nature of the use.
- 10) All archery, rifle, skeet, and trap shooting ranges shall be carefully designed to prevent safety or nuisance noise problems on abutting property. To that end, each application shall be accompanied with a written description of all the design characteristics and operational measures to be taken to ensure safety and prevent unwanted noise impacts on nearby property. Such measures shall be consistent with the most current MDNRE and National Rifle Association guidelines as directly referenced in the application.

### B) LARGE RETAIL DEVELOPMENT

This development is characterized by a free-standing structure of at least 25,000 square feet with primary use as a retail sales facility, whether with one or multiple tenants. The purpose of these regulations is to ensure the development of commercial areas that are safe, comfortable, and attractive to pedestrians that provide good connections between traffic corridors and neighborhoods, and between adjacent businesses along highway corridors so as to preserve good access and mobility. Standards address a basic level of design, scale and layout to promote compatibility and to mitigate potential negative impacts. These standards are also intended to ensure that buildings incorporate architectural features and patterns that provide visual interest at the pedestrian scale and reduce the massive scale of large buildings which, without supplication of these standards, would be incompatible with the Township's traditional and desired character. Large scale retail development is permitted by Special Land Use Permit in the M-2 district, shall meet the following requirements:

- 1) Any application for a large-scale retail development shall include a traffic assessment, a fiscal impact assessment, and an environmental impact assessment, along with the required permit application forms.
- 2) All buildings subject to this section shall have their principal entrance opening to a street, square, plaza, or sidewalk, and not to the interior of blocks or to parking lots or garages so as to facilitate safe pedestrian access.
- 3) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 4) All commercial parking that is visible from the street shall be screened according to Section 5.5.13.
- 5) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 6) Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection.



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- 7) These facilities will provide for multi-modal transportation facilities to link the use with the remainder of the community. Bus stops, drop-off and pick-up points shall be integrated with traffic patterns on the site. Bicycle racks will be provided near entrances.
- 8) Whenever possible, on-site snow storage shall be accommodated in a number of smaller sites, rather than one large area, to speed up the melting process.
- 9) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 10) Ground floor uses shall be visible from and/or accessible to the street through the use of windows and doors on at least fifty (50) percent of the length of the first-floor street frontage. Where windows are used, they shall be transparent.
- 11) Facades greater than one-hundred (100) feet in length shall incorporate wall plane projections or recesses having a depth of at least three (3) percent of the length of the façade and extending at least twenty (20) percent of the length of the façade. No uninterrupted length of any façade shall exceed one-hundred (100) horizontal feet.
- 12) Smooth-faced concrete block, tilt-up concrete panels, or pre-fabricated steel panels are prohibited as the predominant exterior building materials.
- 13) The maximum setback requirements may be waived by the review body/official for an area not to exceed ninety (90) percent of the frontage in order to accommodate courtyards.
- 14) Doors shall be recessed into the face of the building to provide a sense of entry, protection from the elements, and variety to the streetscape.
- 15) Canopies, awnings, and similar appurtenances may be constructed at the entrance to any building, subject to the criteria established in the building code, to create transition areas at building entrances for patrons to shed snow prior to entering the building.
- 16) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 17) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.
- 18) Signs shall conform with Section 5.7.
- 19) Off-Street Parking shall conform with Section 5.5.10.
- 20) Fencing/buffering shall conform with Section 5.6.
- 21) All lighting shall be down-shining and shielded from adjoining properties and roadway per the requirements of Section 5.11.3.

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### C) BED AND BREAKFAST ESTABLISHMENTS

Tourist homes and bed & breakfast establishments permitted by Conditional Land Use Permit in the R-1, R-2, R-3, R-4, M-1, M-2, M-3, and FR Districts shall meet the following requirements:

- 1) The bed and breakfast must be the primary dwelling unit for the owner, who must operate and occupy the structure. The bed and breakfast facility may have up to six (6) bedrooms used for transient guests for compensation.
- 2) The applicant shall provide a scaled floor plan of the premises as part of the Tier 2 Conditional Land Use application.
- 3) The exterior appearance of the structure shall be harmonious with the character of the surrounding District.
- 4) A fire escape plan shall be developed and graphically displayed in each guest room.
- 5) A minimum of one (1) fire extinguisher, in proper working order, shall be located on each floor, in a place readily accessible to guests.
- 6) The establishment shall contain at least two (2) exits to the outdoors.
- 7) No guest room shall be located in a basement or cellar.
- 8) No transient occupant shall reside on the premises for more than ninety (90) days in any calendar year.
- 9) Lavatories and bathing facilities shall be available to all persons using the premises.
- 10) No separate or additional kitchen facilities shall be provided for the guests.
- 11) Retail sales are not permitted beyond those activities serving the registered overnight patrons.
- 12) Meals shall not be served to the public at large but only to registered guests.
- 13) No receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve only registered guests.
- 14) The rental sleeping rooms shall have a minimum size of one-hundred (100) square feet for each two (2) occupants, excluding bathrooms, with an additional thirty (30) square feet for each additional occupant, to a maximum of four (4) occupants per room.

### D) CAMPGROUNDS AND RV PARKS, ORGANIZED CAMPS

Organized camps, campgrounds and RV Parks are permitted by Conditional Land Use Permit in the R-3, R-4, M-2, and M-3 Districts and by Special Land Use Permit in the CR and FR Districts, shall meet the following requirements:

- 1) Campgrounds shall not be used as permanent residences except for the owner or manager and permanent maintenance personnel.
- 2) Sites shall be a minimum of ten (10) acres.
- 3) Developments shall comply with the provisions of the *Public Health Code, P.A. 368 of 1978*, as amended.

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- 4) Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, provided that:
  - a. Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.
  - b. Such establishments shall be restricted in their use primarily to occupants of the park.
  - c. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
- 5) No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district.
- 6) In addition to meeting the above requirements, the site plan shall be subject to the review and approval of the Health Department.

### E) LARGE MEDICAL SERVICE ESTABLISHMENTS

Permitted by Special Land Use permit in the R-3, M-1 and M-2 Districts, shall meet the following requirements:

- 1) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 2) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 3) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.
- 4) Any dumpsters used by a medical office shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate so that it shall not be visible from lot lines. Any disposal of bio-hazardous waste shall be in conformance with state and local requirements.
- 5) Light Poles shall be a maximum of twenty (20) feet in height and shall be made of a hooded design to prevent light from leaving the property.

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### F) SMALL MEDICAL SERVICE ESTABLISHMENTS

Small medical service establishments permitted by Conditional Land Use Permit in the R-1, R-3 and M-3 Districts, shall meet the following conditions.

- 1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.
- 6) Any dumpsters used by a medical office shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate so that it shall not be visible from lot lines. Any disposal of bio-hazardous waste shall be in conformance with state and local requirements.

### G) REPAIR SERVICES

Medium Repair services are permitted by Conditional Land Use permit in the R-3, R-4, M-1, M-2, and M-3 Districts and by Special Land Use Permit in the R-1 and R-2 Districts. Light Repair Service Establishments are permitted by Conditional Land Use Permit in the R-3, R-4, and M-3 Districts and by Special Land Use Permit in the R-1 and R-2 Districts; shall meet the following requirements:

- 1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.

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- 4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

### H) OFFICE ESTABLISHMENTS

Office Establishments are characterized by financial institutions; offices for attorneys, accountants, architects, engineers and similar professionals; government offices; public utility offices; telemarketing sales offices and other similar compatible uses. Office Establishments are permitted by Conditional Land Use Permit in the R-1, M-1 and M-3 districts shall meet the following requirements:

- 1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

### I) GENERAL PERSONAL SERVICES

General Personal Services are characterized as Laundry pick-up stations; dry cleaning establishments performing the cleaning processes on site; self-services laundries; nails, beauty and barber shops and salons; shoeshine and shoe repair; tattoo parlors; tanning, steam baths, reducing salons and health clubs; fitness center; tailor and dressmaker shops; tuxedo rental; photographic studios; animal grooming; and domestic services. General Personal Services are permitted by Special Land Use in the R-1 District and by Conditional Land Use Permit in the M-3 District, shall meet the following requirements:

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- 1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

### J) CREMATORIA

Crematorium, defined as a facility for the burning of corpses, human or animal, to ashes either as a principal use or as an accessory use, is permitted by Conditional Land Use Permit in the R-1, R-2, R-3, M-1, and M-2 Districts and by Special Land Use in the I District, shall meet the following requirements:

- 1) Prior to the issuance of a Certificate of Zoning Compliance for any crematorium, the operator shall provide documentation to the Township that all applicable federal, state, and local permits have been obtained, and all manufacturer's specifications for construction, installation, operation, and maintenance shall have been provided to the appropriate review body/official.
- 2) Crematoriums shall be constructed, installed, operated, and maintained in accordance with all manufacturers' specifications and all applicable federal, state, and local permits. The Township shall have the right to enter and inspect the operations of the crematoriums to determine compliance with this provision.
- 3) Crematoriums shall be entirely within an enclosed building.
- 4) Crematoriums shall be located such that the retort vents are no closer than five-hundred (650) feet to the nearest residence and shall be sited, using topography and landscaping, so that the retort vents and delivery entrance cannot be seen from any public right-of-way. If the building can be seen from any public right-of-way, crematoriums shall be incorporated into the design of buildings such as chapels and mausoleums so that the cremation aspect is not apparent.

### K) MEDICAL MARIJUANA DISPENSARY

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Medical Marijuana Dispensaries permitted by Special Land Use in the I district shall meet the following requirements:

- 1) No medical marijuana dispensary shall be established on a parcel within one thousand three hundred twenty feet (1,320') of any dwelling unit, park, school, child care organization, or place of worship. The distance shall be measured in a straight line from the nearest property line upon which the proposed medical marijuana dispensary is to be located to the nearest property line of the dwelling unit, park, school, child care organization, or place of worship.
- 2) Medical marijuana dispensaries shall not be allowed as home occupations or in any other zoning district.
- 3) The proposed use must meet all applicable written and duly promulgated regulations of Township and or other governmental agencies having jurisdiction, including the *Michigan Medical Marihuana Act, Initiated Law 1 of 2008*, as amended, and must, to the extent required, have the approval of these governments and/or governmental agencies or be reasonably assured of such approval.
- 4) The location shall be monitored at all times by closed circuit video recording system for security purposes. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the ready identification of any individual committing a crime anywhere on the site, and recordings kept for at least 30 days.
- 5) The location shall have a centrally-monitored alarm system.
- 6) Interior and exterior lighting must be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of forty (40) feet.
- 7) Windows and roof hatches shall be secured overnight with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.
- 8) No cultivated marijuana or dried marijuana product may be visible from the building exterior.
- 9) Any beverage or edible produced, provided, or sold and containing marijuana shall be so identified with a prominent and clearly legible warning advising that the product contains marijuana and that it is to be consumed only with a physician's recommendation.
- 10) No persons under the age of eighteen shall be allowed on site, unless the individual is a qualified patient or person with a registry identification card and accompanied by his or her licensed attending physician, parent, or documented legal guardian.
- 11) No medical marijuana dispensary shall provide medical marijuana to any persons other than qualified patients or persons with registry identification cards and designated primary caregivers legally authorized to possess marijuana pursuant to Michigan law.
- 12) No cultivation of medical marijuana shall be visible with the naked eye from any public or other private property. No outdoor cultivation shall occur at a location unless it is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.
- 13) Dried marijuana shall be stored in fully enclosed and secured structures or a locked vault or safe bolted to the floor of the facility.

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- 14) No retail sales of drug paraphernalia are permitted at the dispensary.
- 15) The dispensary shall be operated in compliance with regulations the Township Board may issue regarding security measures, record keeping, proper identification for qualifying patients, delivery of medical marihuana by primary caregivers, storage of marihuana on the site, on-site cultivation and the maximum amount that may be dispensed in any single transaction. Such regulations may be modified from time to time, as the Township Board deems appropriate.
- 16) Medical marijuana shall not be consumed on site.

### L) RESEARCH AND DEVELOPMENT ESTABLISHMENTS

Research and Development Establishments are characterized by, any establishment for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development. Research and Development Establishments are permitted by Conditional Land Use Permit in the R-3, M1 and M3 Districts, shall meet the following requirements:

- 1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

### M) SEXUALLY-ORIENTED BUSINESS

Permitted by Special Land Use Permit in the I District, shall meet the following requirements:

- 1) No person shall reside in or on, or permit a person to reside in or on, a building or property occupied by a sexually oriented business.
- 2) No sexually oriented business shall be established on a parcel which is within one-thousand (1,000) feet of any parcel in a residential or mixed-use zone.



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- 3) No sexually oriented business shall be established on a parcel within one-thousand (1,000) feet of any of the following, as measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the use as follows:
  - a. dwelling unit;
  - b. any residential lot line;
  - c. any residential zoning district;
  - d. any residential planned unit development;
  - e. Licensed residential care facility;
  - f. Licensed foster family group home;
  - g. Nursing home;
  - h. School;
  - i. Child care organization;
  - j. Place of worship;
  - k. Public park;
  - l. Public library;
  - m. Other sexually oriented business.
- 4) The proposed use shall conform with all regulations of the zoning district in which it is located unless those regulations conflict with these standards, in which case these standards shall control.
- 5) Any sign or signs proposed for the sexually oriented business (whether on-site or off-site, including but not limited to billboards) shall not include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination, and otherwise shall conform with the requirements in Section 5.7.
- 6) Entrance signs to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting from the business, and using lettering no less than two (2) inches in height that say:
  - a. "Persons under the age of 18 are not permitted to enter the premises", and
  - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- 7) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- 8) Hours of operation shall be limited to 10:00 AM to 11:00 PM., Monday through Saturday.
- 9) All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one-half hour after the business closes, and shall conform with applicable regulations of Section 5.5.

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- 10) Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of *Specified Anatomical Areas* or *Specified Sexual Activities* shall:
  - a. Be handicap accessible to the extent required by the Americans With Disabilities Act;
  - b. Be unobstructed by any door, lock or other entrance and exit control device;
  - c. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
  - d. Be illuminated by a light bulb of wattage of no less than 25 watts;
  - e. Have no holes or openings in any side or rear walls not dedicated for use by a utility, or a heating, air conditioning or ventilation system.

### N) TOURIST SERVICE ESTABLISHMENTS

Tourist Service Establishments are permitted by Special Land Use Permit in the R-1, R-2, R-3, and R-4 Districts and by Conditional Land Use Permit in the M-1 and M-3 Districts, shall meet the following requirements:

- 1) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- 2) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- 3) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- 4) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.
- 5) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

### O) VEHICLE SALES AND SERVICE ESTABLISHMENTS

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Vehicle sales and service establishments are permitted by Special Land Use Permit in the R-3, R-4, M-1, and M-3 District. Gasoline and auto service stations are permitted by Conditional Land Use Permit in the R-3, M-3 and I Districts, shall meet the following requirements:

- 1) All automobile servicing and repair activities must either be carried on within an enclosed building or screened along any property line that abuts a residential use or district per the requirements of Section 5.6.
- 2) Outdoor public address or loudspeaker systems are prohibited.
- 3) The following activities and equipment are permitted only in the rear yard and at least 50 feet from a residential use or district:
  - a. Storage of vehicle parts and refuse
  - b. Temporary storage of vehicles during repair and pending delivery to the customer
  - c. Vacuuming, and cleaning
- 4) The following activities and equipment are permitted only within an enclosed building:
  - a. Lubrication equipment
  - b. Motor vehicle washing equipment
  - c. Hydraulic hoists and pits
- 5) Outside storage or parking of any disabled, wrecked, or partially dismantled vehicle is not permitted for a period exceeding ten (10) days during any thirty (30)-day period.
- 6) Vehicles being serviced or stored for customers shall not be parked on streets, alleys, public sidewalks, or public park strips.
- 7) No building, structure, canopy, gasoline pump, or storage tank shall be located within 25 feet of a residential zoning use or district.
- 8) Body work and painting shall be conducted within fully enclosed buildings.
- 9) All discarded parts and materials shall be deposited into a completely enclosed container concealed from adjacent properties.
- 10) All outdoor lighting shall be provided with full cut-off fixtures.

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### **9.3.3 INDUSTRIAL AND WAREHOUSING USES**

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#### **9.3.3.1 DANGEROUS CHEMICALS AND FUELS**

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Dangerous chemical and fuel handling establishments permitted by Special Land Use Permit in the M-2 and I Districts shall meet the following requirements:

- A) Use shall meet all applicable municipal, state, and federal standards.
- B) Minimum lot size shall be three (3) acres, and no fuel tanks shall be located less than seventy-five (75) feet from any occupied building or lot line, and shall be mounted on a concrete slab to prevent overturning and spilling.
- C) Facilities for the storage, manufacturing, and distribution of toxic and/or hazardous materials shall be located at least five-hundred (500) feet from a residential use or zone.
- D) Pollution Prevention Plans shall be approved by the MDEQ and State Fire Marshall as required.

#### **9.3.3.2 INDUSTRIAL SERVICE ESTABLISHMENTS (HEAVY)**

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Heavy Industrial Service Establishments permitted by Special Land Use Permit in the I District shall meet the following requirements:

- A) All uses shall be established and maintained in accordance with all applicable State of Michigan and federal statutes.
- B) A solid uniformly finished fence or wall at least eight (8) feet in height shall be provided along the exposed sides of the site. The fence height shall be great enough to screen all materials from the road and abutting properties.
- C) All activities, equipment, or material shall be confined within the fenced-in area and there shall be no stacking of material above the height of the fence, or wall.
- D) All fenced-in areas shall be set back at least five hundred (500) feet from a public street or highway right-of-way line.
- E) Burning of material shall conform to state regulations.
- F) Whenever the installation abuts upon property within a residential or mixed-use district, a transition strip at least one hundred (100) feet in width shall be provided between the junkyard fence and the adjacent property, planted per the requirements of Section 5.6.
- G) No oils, lubricants or other such fluids shall be disposed of on-site except in MDEQ approved facilities.

#### **9.3.3.3 EXTRACTIVE INDUSTRIES**

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- A) APPLICABILITY:

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Excavation activities include a broad range of land disturbance activities, which may require a grading development approval and may require other local, state, and federal development approvals. This section applies to quarries, sand, or gravel excavation, and substantial land alteration activities. Substantial land alteration activities include:

- 1) Land-disturbing activities designed to occur for more than three months;
- 2) The removal from a site of more than 100 cubic yards of earth material per acre (gross) and less than 1,000 cubic yards of material per acre;
- 3) Results at any time during or following excavation in an exposed bedrock slope steeper than 2:1 and less than 3:1;
- 4) A movement of 100 cubic yards or more of earth that involves a change in natural or preexisting grades of 5 or more vertical feet for any portion of a parcel; or
- 5) Any movement of earth on the entire parcel in excess of 1,000 cubic yards.

### B) TRANSFER OF DEVELOPMENT APPROVALS

- 1) Expansion of a site with previously approved, existing excavation activity requires a complete review meeting the requirements of the original permit. Of principal concern during this review shall be the additional and cumulative impacts that will be caused by the combined operations on factors such as the environment, traffic, safety, noise, air pollution, neighborhoods, and adjacent land uses.
- 2) Contraction of the site on which the “excavation activity” has been approved will require a review in order to evaluate how the loss of the use will affect buffers, land-use compatibility, noise, reclamation, and reuse of the site.
- 3) No permit shall be transferred to another party without review by the planning commission to make sure all conditions, standards, and requirements imposed on the original applicant will continue to be met. It must also be determined that all security instruments remain in full effect and that the new owner agrees to comply in full and has the necessary financial security to hold the Township harmless.
- 4) If the property is sold, the permit and all of the conditions, standards, and requirements run with the land, and the new property owner is fully bound as if he/she were the original owner.

### C) STANDARDS:

Excavation activity is permitted by Special Land Use in all Districts, shall meet the following requirements:

- 1) All uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.
- 2) The minimum lot size shall be twenty (20) acres. No machinery shall be erected, maintained, or operated within two hundred (200) feet of any property line or right-of-way.

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- 3) All uses shall be enclosed by a fence, berm or suitable plantings six (6) feet or more in height along the road right-of-way and along the portions of the exposed periphery abutting a residential use or district, public recreation area, public facility, or public gathering places per the requirements of Section 5.6. No storage of equipment or materials may be located within the buffer area.
- 4) The applicant shall submit a blasting plan to the Bessemer Township with proof of insurance in an amount and form as approved by the Township's attorney. Such activity shall be conducted only by licensed, insured individuals or entities and shall be in conformance with all applicable federal, state, and local regulations.
- 5) Routes shall be established for truck movement to and from the site in order to minimize the wear on public roads and to prevent hazards and damage to properties in the Township.
- 6) All installations shall be maintained in a neat, orderly condition so as to prevent injury to property, any individual, or the Bessemer Township in general.
- 7) Proper measures shall be taken to minimize the nuisance of noise, vibration, and flying dust or rock. Such measures may include but is not limited to limitations upon the practice of stock-piling excavated materials on the site, dust control on roads, or limits on hours of operation.
- 8) Individual excavation areas shall not exceed three (3) acres in size before reclamation.
- 9) The property shall meet the lighting requirements of the district in which it is located.
- 10) The property shall meet the sign requirements of the district in which it is located.

### **9.3.3.4 MANUFACTURING AND WAREHOUSING ESTABLISHMENTS**

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Manufacturing establishments permitted by Conditional Land Use Permit in the I District. Warehousing Establishments are permitted by Conditional Land Use Permit in the M-2 and M-3 Districts and by Special Land Use Permit in the CR District. These uses shall meet the following requirements:

- A) Except as otherwise provided in this *Ordinance*, all operations shall be conducted wholly within a completely enclosed building.
- B) Surface parking shall be oriented behind or to the side of a building, with access from shared driveways, service roads, or alleys when possible. Surface parking shall not be on street corners.
- C) Pedestrian access from the public sidewalk or street right-of-way to the principal structure shall be provided through an improved surface that is visually distinct from the surrounding surfaces and provides safe crossings of streets, drives, and parking areas.
- D) Winter maintenance of pedestrian walkways and parking facilities shall be provided by the use.
- E) Buildings shall be designed to minimize the shedding of snow and rain runoff onto pedestrians utilizing proper building placement, design of roof pitch, placement of awnings or canopies, or the addition of roof elements directing wind beyond the pedestrian zone.

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- F) Mechanical appurtenances shall be located within the structure, except that heating and air conditioning equipment may be located on the exterior portion of the structure as long as it is screened and finished to match the colors and materials of the adjacent building materials.

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### **9.3.4 INSTITUTIONAL USES**

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#### **9.3.4.1 EDUCATIONAL INSTITUTIONS**

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Educational institutions are permitted by Conditional Land Use Permit in the R-1, R-2, M-1, and M-2 Districts and by Special Land Use Permit in the M-3 and CR Districts; shall meet the same requirements as Public Buildings (Section 9.3.5) and no alcohol shall be served on premises.

#### **9.3.4.2 RELIGIOUS INSTITUTIONS**

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Religious institutions are permitted by Conditional Land Use Permit in the R-1, R-2, and M-1 Districts and by Special Land Use Permit in the M-3 and CR Districts; shall meet the same requirements as Public Buildings (Section 9.3.5).

#### **9.3.4.3 SOCIAL INSTITUTIONS**

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Social institutions permitted by Conditional Land Use Permit in the R-1, R-3, M-1, M-3 and CR districts shall meet the same requirements as for Public Buildings (Section 9.3.5), and no alcohol shall be served on premises.

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### **9.3.5 PUBLIC USES**

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#### **9.3.5.1 ESSENTIAL SERVICES**

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Essential Services are permitted by Conditional Land Use Permit in all districts and shall meet the requirements of section 5.8 of this Ordinance.

#### **9.3.5.2 PUBLIC BUILDINGS AND RELATED FACILITIES**

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Public buildings and facilities owned by governmental entities including Bessemer Township are permitted by Special Land Use Permit in the R-1, R-3, R-4, M-1, M-2, M-3 and CR Districts. Roadside Parks and other parks are permitted by Conditional Use Permit in the R-1, R-2, R-3, R-4, M-1, M-2, M-3, CR and FR Districts. Cemeteries are permitted by Conditional Land Use Permit in the R-3, R-4, and CR Districts. These uses shall meet the following requirements:

- A) No building, structure (except for flagpoles), or use shall be located within thirty (30) feet of a residential zoned parcel or use.

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- B) If located in a Residential District, all buildings and structures shall be designed to be compatible with the character of the surrounding neighborhood.
- C) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.10.
- D) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.8.
- E) The property shall be suitably landscaped per the requirements of Section 5.6.
- F) Signs shall conform with the requirements of Section 5.7.

### **9.3.5.3 UTILITY AND PUBLIC SERVICE INSTALLATIONS**

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#### A) LIGHT

Light Utility and Public Service Installations such as electrical substations and gas regulator stations (this does not include those that qualify as essential services per Section 5.8 or communication towers per Section 9.3.5.3.E) permitted by Conditional Land Use Permit in the R-3, R-4, M-1, M-2, M-3, and I Districts and by Conditional Land Use Permit in the CR and FR Districts, shall meet the following requirements:

- 1) Buildings, structures (except for flagpoles), and uses shall be located at least thirty (30) feet from all lot lines and street lines.
- 2) Exterior equipment shall be screened from adjacent residential Districts per the requirements of Section 5.6.
- 3) The property shall be suitably landscaped per the requirements of Section 5.6.
- 4) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.8.
- 5) Lighting shall be down directed and conform with the requirements of Section 5.11.3.

#### B) HEAVY

Heavy Utility and Public Service Installations permitted by Special Land Use Permit in the R-3, R-4, M-2, M-3, I, CR, and FR Districts shall meet the requirements in subsection 1) above and shall meet the following requirements:

- 1) If located in a residential district, all buildings and structures shall be designed to be compatible with the character of the surrounding neighborhood.
- 2) Off-street parking shall be screened from adjacent residential uses or districts per the requirements of Section 5.5.
- 3) Signs shall conform with the requirements of Section 5.7.

#### C) COMMUNICATION TOWERS

Communication towers permitted by Special Land Use Permit in all Districts shall meet the following requirements:



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- 1) The location of a proposed communication tower shall not be approved unless the Zoning Administrator determines that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building located within the applicant's search radius of the proposed tower due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
  - c. Existing or approved towers and buildings within the search area cannot accommodate the planned equipment at a height necessary to provide reasonable coverage and/or capacity as documented by a qualified and licensed professional engineer.
  - d. Other reasons that make it infeasible to locate the planned equipment upon an existing or approved tower or building, including but not limited to documented proof that the owner of such tower or building will not lease space to the applicant, that there is insufficient ground, building, roof or tower area on which equipment may be installed, existing towers or buildings would not provide required setback distances, etc.
- 2) Subject to the setback and other requirements of this Ordinance, a communication tower shall be located on a parcel of land so as to provide a fall zone of not less than one hundred ten percent (110%) of the height in the tower to any lot line. This fall zone shall be maintained throughout the existence of the communication tower. No land division shall be approved which would violate this provision.
- 3) Communication towers shall be of a monopole or self-supporting lattice design, unless the Bessemer Township Board finds that an alternative design will not adversely impact the surrounding area.
- 4) Proposed wireless telecommunication towers of the guyed or self-supporting lattice type shall be structurally designed, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. Proposed monopole wireless telecommunication towers shall be structurally designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user. All towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- 5) The base of the tower and wire/cable supports shall be fenced with a minimum six foot (6') climb-resistant fence.
- 6) All communication towers erected, constructed, or located within the Township shall comply with the following requirements:
  - a. Discontinuance and Abandonment: The holder of a Special Land Use Permit for a wireless telecommunications tower shall remove all discontinued communication towers and give notice of discontinuance of use of a tower within ninety (90) days of the date that the use of the tower ceases. If at any time the use of the tower is discontinued for more than

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365 consecutive days, the Zoning Administrator may declare the tower abandoned. Notice of abandonment shall be sent by first-class mail to the applicant instructing the applicant that the tower must either be reactivated or dismantled and removed from the site within 120 days of the date the notice is sent to the applicant. If reactivation or dismantling and removal of the tower does not occur, the Township may contract to remove the tower and assess all cost on the property taxes of the owner of the tower or file a lawsuit to collect the costs plus reasonable attorney fees.

- b. Towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA). If required to be lighted, all options for lighting shall be presented to the Township Planning Commission which shall select the option with the least negative visual impact in the area, unless the FAA dictates a particular option.
- c. There shall be no display advertising or identification of any kind intended to be visible from the ground or other structures.

### D) ELECTRICAL TRANSMISSION LINES

345 kv overhead electric transmission lines or larger are prohibited in Township. Buried 345 kv or larger electric transmission lines permitted by Special Land Use permit in the R-3, R-4, M-1, M-2, M-3, I, CR, and FR Districts shall meet the following requirements:

- 1) Siting shall conform with the requirements of the *Electric Transmission Line Certification Act, PA 30 of 1995, (MCL 460.561-460.575)*.
- 2) All 345 kv or larger electric transmission lines shall be within a right-of-way or easement which is at least six hundred-sixty (660) feet from any residential district, existing dwelling unit, church, school or other public gathering place.

### E) PUBLIC AIRPORT

All airports and landing strips permitted by Special Land Use Permit in the R-3, R-4, M-2, M-3, CR and FR Districts shall meet the following requirements:

- 1) Conform to all FAA and MAC regulations, including, but not limited to *1950 PA 23, 1999 PA 382 and 383*, which require an Airport Layout Plan, and an Airport Accident Safety Zone.
- 2) BII basic utility airports (as defined and regulated by MDOT) shall be located on property served by a paved road or street; BIII commercial airports (as defined and regulated by MDOT) shall be located on property served by a paved major thoroughfare.
- 3) Lodges, schools, churches, or other assembly buildings shall not be located within two thousand six hundred-forty (2,640) feet of any runway.

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- 4) A six (6) foot chain link fence shall be provided to prevent the attendant hazards of inadvertent entries onto the airport properties.
- 5) All lights, used for landing strips and other lighting facilities, should be so arranged as not to reflect towards adjoining districts or uses.
- 6) The storage and handling of flammable liquids, liquefied petroleum gases, and explosives at the airport shall comply with applicable State Rules and Regulations.
- 7) Off-street parking should be provided in sufficient amounts to provide for the parking of automobiles and other motor vehicles used by the employees, patrons, and visitors to the airport and which should not be less than one (1) parking space for each one employee and one (1) parking space for each one (1) aircraft harbored at the airport.

### F) HARBORS AND RAIL YARDS

Permitted by Conditional Land Use Permit in the R-3, R-4, M-1, M-2, M-3 and I Districts and by Special Land Use Permit in the CR and FR Districts, shall meet the following requirements:

- 1) A solid uniformly finished fence or wall at least eight (8) feet in height shall be provided along the exposed sides of the site that is used for outdoor storage. The fence height shall be great enough to screen all materials from the road and abutting properties.
- 2) All activities, equipment, or material shall be confined within the fenced-in area.
- 3) Lighting shall be shielded to prevent light from casting onto adjacent property.
- 4) The site and activities shall comply with all applicable State and Federal laws.

### G) WIND ENERGY CONVERSION SYSTEMS

Wind Energy Conversion Systems (WECS) under thirty-five (35) feet in height permitted by Special Land Use Permit in R-1, R-2, CR and FR Districts and by Conditional Land Use permit in the R-3, R-4, M-1, M-2, M-3, and I Districts; and WECS between thirty-five (35) feet and eighty (80) feet in height permitted by Special Land Use Permit in the R-3, R-4, M-1, M-2, M-3, I, CR, and FR Districts; WECS over eighty (80) feet in height permitted by Special Land Use Permit in the R-4, M-1, M-2, M-3, I, CR, and FR Districts shall meet the following requirements:

- 1) In addition to the requirements of this section, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all occupied buildings within three-hundred feet (300') of the WECS.

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- 2) Each application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following:
  - a. A standard foundation and anchor design or specifications for normal soil conditions; and
  - b. A detailed parts list; and
  - c. Clearly written detailed instructions for the assembly, installation, check-out, operation and maintenance of the WECS on site; and
  - d. The list of warning labels required by this section;
  - e. Grounding and lightning procedures protection which follow the National Electrical Code Articles 250 (Grounding) and 280 (Lightning Arresters) or any subsequent, superceding regulations; and
  - f. Underwriters label; and
  - g. Proof of insurance.
  - h. Results of avian and bat mortality analysis and measures to be taken to reduce negative impacts on birds and bats.
  - i. Analysis of minimum, mean and maximum noise analysis at each property line.
  - j. Analysis of ice throw under minimum, mean and maximum wind conditions.
- 3) The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Rules, 47 CFR Parts 15 (including subparts A and F) and 18 (including subparts A,D. and H) or any subsequent, superceding regulations.
- 4) The maximum level of noise permitted to be generated by any WECS shall be sixty (60) decibels, as measured on the dBA scale, and measured at the property line nearest the WECS. The WECS shall not cause human detectible vibrations at the property line.
- 5) Setbacks: No WECS shall be erected such that any portion of the tower or turbine is closer to utility lines or property lines than the total distance equal to the height of the tower and rotor combined. If the ice throw distance is greater than this distance, and if there are any principal or accessory structures within reach of ice throws, then the WECS location shall be adjusted to prevent ice throw impact on all abutting property. The lowest point of the arc created by rotating blades shall be at least fifteen (15) feet above ground level.
- 6) Labeling: The following information shall be provided on labels attached to the WECS tower subsystem in a visible, easily accessible location:
  - a. Equipment weight of the tower subsystem;
  - b. Manufacturer's name and address;
  - c. Model number;
  - d. Serial number;

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- e. The following tower warning label or equivalent warning: Installation and Maintenance of This Product Near Power Lines is a Danger. For your Safety Follow the Installation and Maintenance Instructions.
- 7) WECS shall be sited and constructed of materials which use the best available technology at the time, with special consideration to minimizing noise and threats to birds and bats.
- 8) WECS shall require the applicant to make application to the Federal Aviation Administration to apply for lighting standards that:
  - a. Are the lowest intensity allowable.
  - b. Avoids strobe lighting or other intermittent white lighting fixtures.
  - c. May be a green or red top light that does not pulsate or blink.
  - d. Are in compliance with legal minimums per FAA requirements. A written FAA report shall be submitted to verify lighting requirements.
- 9) WECS shall be secured or protected to prohibit access by unauthorized persons and a security fence may be required if determined to be in the best interest of the community.

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### **9.3.6 RESIDENTIAL USES**

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#### **9.3.6.1 DWELLINGS**

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##### **A) MULTIPLE-FAMILY DWELLINGS**

A building for multiple family dwellings permitted by Conditional Land Use Permit in the R-1, R-2, R-3, M-1, M-2, and M-3 Districts shall meet the following requirements:

- 1) Density no greater than one dwelling unit per every four thousand (4,000) square feet of parcel area.
- 2) Maximum lot coverage shall be forty (40%) percent of the parcel.
- 3) The ingress and egress drives or roadways shall be paved, to the parking lot, and shall be at least twenty-four (24) feet wide.
- 4) The development shall be screened from adjacent properties by a greenbelt, buffer strip or berm at the developer's option, as required in Section 5.6.
- 5) Lighting shall meet the requirements of Section 5.11.3.
- 6) The outdoor storage of trash or rubbish shall be screened in accordance with Section 5.6.8.
- 7) The signage shall be as required in Section 5.7.
- 8) The minimum distance between two (2) residential structures shall be thirty (30) feet, whether on or off the site.

##### **B) MIXED USE DWELLING**

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Permitted by Special Land Use Permit in the R-1, R-2, M-1, M-2, M-3 and I Districts shall meet the following requirements:

- 1) Dwellings in a mixed-use building may be located only in floors above the ground floor. For purposes of this provision only, “ground floor” shall mean the first floor in which the ceiling is four feet or more above grade at the nearest building line.

### C) LIVE/WORK DWELLING

Live/work dwellings shall meet the following requirements:

- 1) A live/work dwelling’s commercial activity may be any nonresidential primary use permitted in the same zone district that the live/work dwelling is established, subject to compliance with the limitations of this section. Typical commercial activities may include offices; custom or craft manufacturing, fabrication, and assembly; and other similar activities as determined by the Zoning Administrator. In addition, the following commercial activities not otherwise specifically listed as permitted in the applicable zone district are allowed in a live/work dwelling use:
  - a. Art gallery;
  - b. Artist studio;
  - c. Professional studio;
- 2) In the R-1, R-2, R-3, R-4 Districts only:
  - a. The commercial activity shall not exceed fifty (50) percent of the gross floor area of the use.
  - b. The commercial activity shall not have more than two employees or regular assistants on the premises at one time (such employees or regular assistants may be in addition to residents of the live/work dwelling employed or working in the commercial activity portion of the use).
  - c. Any repair, assembly, or fabrication of goods is limited to the use of hand tools or domestic mechanical equipment.

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### **9.3.6.2 RESIDENTIAL DEVELOPMENTS**

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#### A) CONDOMINIUM SUBDIVISIONS:

All condominium subdivisions shall conform to the following provisions in addition to all other applicable District provisions and shall be approved pursuant to the requirements of Article 10, Planned Unit Development Regulations.

##### 1) General Provisions:

- a. A condominium unit, including single-family detached units, shall comply with the applicable site development standards contained in the district in which it is located unless those standards are waived as part of a PUD approval pursuant to the requirements of Article 10.
- b. A condominium subdivision shall comply with the requirements of the Michigan Department of Environmental Quality and the District Health Department pertaining to potable water supply and waste disposal facilities.
- c. The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.
- d. All provisions of the condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as an amendment to a PUD, subject to the procedures of Article 10.
- e. All streets within a condominium subdivision shall be public and shall be constructed in compliance with the construction standards of this *Ordinance* or as otherwise required by the Gogebic County Road Commission.

##### 2) Design and Construction Provisions:

- a. In addition to the materials required by Section 14.5, Site Plan Review Procedures, and other requirements of Article 10, Planned Unit Development Regulations, a PUD permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:
  - i. A site plan showing the location, size, shape, area and width of all condominium units.
  - ii. A description of the common elements of the condominium subdivision as will be contained in the master deed.

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- iii. Proposed use and occupancy restrictions as will be contained in the master deed.
- b. All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments as provided below:
  - i. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
  - ii. All monuments used shall be made of solid iron or steel bars at least one half (1/2) inch in diameter and thirty six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
  - iii. Monuments shall be located in the ground at all angles in the boundaries of the condominium subdivision; at the intersection lines of streets with the boundaries of the condominium subdivision and at the intersection of alleys with the boundaries of the condominium subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
  - iv. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium subdivision and referenced to the true point.
  - v. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
  - vi. All required monuments shall be placed flush with the ground where practicable.
  - vii. All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one half (1/2) inch in diameter or other approved markers.

### B) OPEN SPACE AND CLUSTER DEVELOPMENT

This residential open space and cluster development option permitted by Conditional Land Use Permit in the R-3, R-4, and M-2 Districts and by Special Land Use Permit in the R-1, R-2, M-3, CR and FR Districts, shall meet the following requirements:

- 1) At least fifty (50) per cent of the lot (or parent parcel) to which this development option is applied, shall be retained permanently in agriculture, woods or other natural open space use.
- 2) Density shall be as established in the District.
- 3) The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this Ordinance without clustering. That means dividing the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements, and ensuring that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, and ensuring



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that adequate right-of-way for a public road meeting Gogebic County Road Commission standards is provided, and ensuring that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune or high risk erosion regulations. No existing or proposed easement shall be counted as available for development. The whole number of lots that results from this calculation, is the maximum number of lots, or dwelling units that may be clustered on the site under this Section.

- 4) The site shall have direct access to a county road or state highway via a new public road built to Gogebic County Road Commission standards.
- 5) The density of the Open Space and Cluster Development shall conform with all the following standards:
  - a. At least fifty (50) percent of the lot or parent parcel shall remain in agriculture, woods or other open space in an undeveloped state after the single family dwellings in the Open Space and Cluster Development are constructed. Land in an undeveloped state means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be dedicated to the use of the public.
    - i. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.
    - ii. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
    - iii. Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.
    - iv. New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.
    - v. Open space shall be reasonably shaped and contiguous, and located for convenient use by residents of the development.
    - vi. The open space shall be permanently protected by recording the use restriction with the County Register of Deeds in a form approved by the Township Attorney such as by means of a conservation easement, plat dedication, restrictive covenant or other legal means that keeps the open space undeveloped in perpetuity.
  - b. The open space may be retained by the original landowner or held in common by one or more of the new landowners in the open space and cluster development.
  - c. Up to twenty (20) percent of the useable common open space may be used for septic drainfields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.

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- d. Lot size for individual lots within the rural cluster shall not be more than two and one-half (2.5) acres nor less than one-third (1/3) acre in size and no parcel shall have an area less than that required to meet District Health Department septic waste disposal requirements if served by individual septic systems. If public sewer is available, individual lot size could be reduced to one-quarter (1/4) of an acre.
  - e. Minimum width of an individual lot in a cluster at the building line shall not be less than sixty (60) feet.
  - f. Dwelling units shall be separated from nearby farm structures by at least five-hundred (500) feet.
  - g. The open space and cluster development design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing county road or state highway.
- 6) The application shall be accompanied by a Site Plan that conforms to the requirements of Section 14.5.
  - 7) A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission, the Zoning Administrator and any planning consultant retained by the Township shall be held prior to submittal or review of any site plan for an Open Space and Cluster Development. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review Ordinance requirements as they apply to the site, before the applicant spends any significant money on even preliminary site designs. The Zoning Administrator will direct the applicant to various publications on Open Space and Cluster Development available from MSU Extension and the American Planning Association to help the applicant through the design process with the least amount of difficulty.

### C) MOBILE HOME PARK

A development of three (3) or more mobile homes, either on individual privately owned lots or on private elements within a condominium project comprise a mobile home park. Mobile Home Parks permitted by Special Land Use permit in the R-3 and M-2 Districts shall meet the following requirements:

- 1) All Mobile Home Parks and Subdivisions shall conform to *P.A. 96 of 1987, as amended*.
- 2) A ten (10) acre site accessible to a major thoroughfare is required as the minimum park size.
- 3) The mobile home park shall be located so that all ingress and egress driveways or roadways within the mobile home park development are connected to a major thoroughfare, except for restricted emergency exits.
- 4) All mobile home park developments with more than thirty (30) mobile homes shall provide at least two (2) points of entrance or exit from the park located no closer than two hundred (200) feet from the intersection of any two (2) public roads. The ingress and egress drives or roadways within the park shall be paved, and for a distance of at least one hundred (100) feet from the public roads, the ingress and egress routes shall be no less than twenty-four (24) feet wide.
- 5) The mobile home park shall be screened from adjacent properties by a greenbelt, buffer strip or berm at the developer's option, as provided in Section 5.6 of this Ordinance.
- 6) The outdoor storage of trash or rubbish shall be screened in accordance with Section 5.6.8 of this Ordinance.

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- 7) The signage shall be as required in Section 5.7.

### **9.3.6.3 RESIDENTIAL SERVICES USES**

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#### A) INTENT

- 1) To develop zoning regulations applicable to housing for special populations that are humane, equitable and enforceable;
- 2) To support and reinforce the viability and continuation of neighborhoods and communities that provide healthy environments for all their residents;
- 3) To prevent the “institutionalization” of residential neighborhoods by concentrating residential care uses so as to allow all residents, including the special populations, to reap the benefits of residential surroundings;
- 4) To increase location opportunities for critically needed residential care facilities, thereby helping to integrate special populations into the mainstream of society;
- 5) To comply with the principles, policies and regulations of federal and state fair housing legislation;
- 6) To establish an ongoing, effective process of communication between local neighborhood residents, the operators of residential services facilities and agencies which regulate such facilities;
- 7) To promote the dispersing of facilities and beds for special populations thereby preventing individuals from being forced into neighborhoods with concentrations of treatment facilities and beds and thus perpetuating isolation resulting from institutionalization.

#### B) GROUP HOUSING

Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of “family” but often share a common situation, with tenancy usually arranged on a monthly or longer basis, although it may be a form of transient lodging. There is usually a common eating area for residents. This includes such uses as a monastery, seminary, or convent, boarding or rooming house, fraternity or sorority, and other housing similar to and compatible with the above housing. Group housing does not include prisons or correctional facilities, community residential care facilities, or institutions for human care and habitation.

Group housing permitted by Special Land Use Permit in the R-1, R-3, R-4, M-1, and M-2 Districts shall meet the following requirements:

- 1) The minimum site size is one (1) acre.
- 2) Parking shall meet the requirements of Section 5.5.

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- 3) There shall be at least fifty (50) feet between buildings with dwelling units or sleeping space and abutting single-family dwellings.
- 4) There shall be a written fire safety and emergency escape plan.
- 5) Must conform with all other applicable Township, county, state and federal requirements.
- 6) Adequate provision shall be made for access by emergency medical and fire vehicles.
- 7) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.8.

### C) INSTITUTIONS FOR HUMAN CARE AND HABITATION AND GROUP HOUSING

Institutions for Human Care and Habitation include a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation, or training of persons who may be developmentally dependent, ill, physically disabled, mentally retarded, emotionally disturbed, or drug or alcohol dependent, such as nursing or convalescent homes, homes for the aged, assisted living facilities, orphanages, sanitariums, and halfway houses. It also includes facilities designed to meet the temporary housing needs of special populations such as the homeless or abused spouses. It does not include correctional facilities. These facilities are permitted by Special Land Use Permit in the R-1, R-2, M-1, and M-3 Districts and by Conditional Land Use Permit in the R-3, R-4 and M-2 Districts, shall meet the following:

- 1) As part of the zoning permit review, the Planning Commission shall determine if the proposed use will generate any traffic problems, will create any undue concentration of these uses, or will in any way be incompatible with adjoining uses. The Planning Commission may approve the application, provided a finding is made that the proposed use will not adversely affect the appropriate use of adjacent property or create an undue concentration of such uses within a specific neighborhood area so as to negatively impact the residential character of the neighborhood.
- 2) There shall be one off-street parking space for each resident and staff.
- 3) There shall be at least fifty (50) feet between buildings with dwelling units or sleeping space and abutting single-unit dwellings.
- 4) There shall be a written fire safety and emergency escape plan.
- 5) The facility must conform with all other applicable, county, state, and federal requirements.
- 6) The applicant and the operator will provide adequate measures for safeguarding the public and the facility residents. Such measures shall be appropriate to the special population including intake screening, supervision and security.
- 7) The proposed use will not substantially or permanently injure the appropriate use of nearby conforming property.
- 8) All facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 9) Adequate provision shall be made for access by emergency medical and fire vehicles.
- 10) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.8.
- 11) The following standards apply to Homeless Shelters only:

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- a. Number of Beds: The number of beds in the shelter shall not exceed 100.
- b. Overnight sleeping accommodations shall be in undivided sleeping space, offered for little or no financial compensation, and shall be operated in a manner that encourages short-term occupancy by residents.
- c. Such facility may include accessory support services but shall not be operated in such a manner that changes its primary function to a use classified as follows: community corrections facility, hospital, assisted living facility, nursing home, rehabilitation center for the handicapped, or residence for older adults.
- d. Proposed shelters for the homeless shall be located more than five hundred (500) feet from a public school.
- e. Prior to opening a temporary shelter in buildings owned by a church, non-profit corporation, or governmental entity, the operator of the temporary shelter shall submit to the Zoning Administrator evidence (A) that the Department of Human Services is involved in the proposed temporary shelter; (B) that a public meeting relating to opening the temporary shelter was held; (C) that at least seven (7) days prior to the public meeting, notice of such public meeting was given to adjacent property owners within three hundred (300) feet of the proposed use, (D) that a community oversight committee has been created, consisting of the council member in whose district the proposed temporary shelter is located and at least two (2) persons who reside within six hundred (600) feet of the proposed temporary shelter, to address neighborhood issues relating to the ongoing operations of the temporary shelter.
- f. The Zoning Administrator has the authority to suspend the terms of this Section's standards for shelters for the homeless in emergency, life threatening situations or as determined by the Zoning Administrator in consultation with the Supervisor.

### D) LARGE COMMUNITY RESIDENTIAL CARE FACILITIES

These state-regulated facilities provide shelter and care for individuals with special needs in single family dwellings for more than six persons. This includes large child/day care centers with over 6 children, Child Caring Institutions, Children's Therapeutic Group Homes, Adult Foster Care Facilities, and Adult Foster Care Congregate Facilities.

All Large Residential Care Uses are permitted by Conditional Land Use permit in the R-3, R-4, M-1, and M-2 districts and shall meet the following standards:

- 1) The applicant is the owner or has written approval of the owner of the property.
- 2) Prior to the issuance of any permit to operate a community residential care facility, and no later than December 31 of each subsequent year, the Applicant or operator shall submit to the Zoning Administrator a photocopy of a valid and current license issued by the State of Michigan. Proof of such licensing shall be required prior to the opening, and as a condition for the continued operation.

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- 3) The program and operational plan has been or will be approved by a licensing agency appropriate to the special population being served in the facility.
- 4) The number of beds in the proposed facility, in combination with the number of existing correctional institution and residential care use beds within the affected neighborhood, regardless of compliance with the spacing and density requirements set forth in this subsection, shall not substantially or permanently injure the neighborhood or shall not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.
- 5) There shall be a written fire safety and emergency escape plan.
- 6) The facility must conform with all other applicable Township, county, state, and federal requirements.
- 7) The size and architectural style of new structures or additions to existing structures located in a residential zone shall not be substantially dissimilar from other structures in the surrounding residential neighborhood and shall comply with all other requirements of the district in which it is located.
- 8) The applicant and the operator will adequately maintain the building and grounds.
- 9) Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets. Accessible routes shall be provided from the pick-up/discharge areas to the facility.
- 10) All facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 11) Adequate provision shall be made for access by emergency medical and fire vehicles.
- 12) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.8.
- 13) For any child care center there shall be provided and maintained an outdoor area suitable for play activity and containing a minimum of two thousand (2,000) square feet. The outdoor play area shall be immediately contiguous to the facility it is intended to serve and shall be enclosed by a protective wall or fence.
- 14) Spacing, density, site and other standards: All proposed large residential care uses shall satisfy the following minimum requirements unless specifically exempt by other provisions herein. Provided, however, that the Zoning Administrator may approve the permit for a large residential care use in a location in violation of the spacing and density regulations of this subsection upon a determination that the spacing violation is less than 10 percent of the required spacing and that locating the proposed use will not substantially or permanently injure the neighborhood. Provided, further, that the Zoning Administrator may require up to 200 feet of additional spacing between large residential care uses in neighborhoods with a greater than average concentration of such uses as determined by the Zoning Administrator.
  - a. A large residential care use shall be a minimum of 2,000 feet from another such use; and
  - b. No more than two other such uses shall exist within a 4,000-foot radius measured from the proposed use.
  - c. The proposed use shall have a minimum lot size of 6,000 square feet and a minimum lot width of 50 feet.
  - d. Such use shall comply with the limitations on external effects as established for uses by right in the district in which it is located.

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### **9.3.6.4 TEMPORARY DWELLINGS**

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Temporary dwellings are permitted by Conditional Land Use permit in the R-1, R-2, R-3, R-4, M-1, M-2, M-3, CR and FR Districts. Except for tents and recreational vehicles in legitimate campgrounds, no structure that does not meet the minimum standards for a dwelling unit as defined in this *Ordinance* and the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, shall be used for dwelling purposes for more than fourteen (14) days in succession nor more than sixty (60) days in one (1) year. Occupancy in excess of these time frames requires a Temporary Zoning Permit as provided for in Section 14.3, or unless constructed as a year around dwelling per the applicable requirements of this *Ordinance*.

## **SECTION 9.4 STANDARDS FOR ACCESSORY CONDITIONAL AND SPECIAL LAND USES**

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### **9.4.1 ACCESSORY DWELLING UNITS (ECHO HOUSING)**

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Dwelling Units that are accessory to a principal residential use are permitted by Conditional Land Use permit in the R-1, R-2, R-3, M-1, M-2 and M-3 Districts, shall meet the following requirements:

- 9.4.1.1** In an R-1 and R-2 Districts the ECHO Unit must be an accessory use on a lot containing one, and only one, single-family residential structure, and there may be a maximum of one (1) ECHO dwelling unit per lot physically connected to the single family residential structure.
- 9.4.1.2** The property owner may reside in either the accessory (ECHO) Dwelling Unit or the principal dwelling unit.
- 9.4.1.3** Potable water and wastewater disposal shall be provided, as required by the District Health Department.
- 9.4.1.4** Dwellings modified in conjunction with an ECHO Dwelling Unit shall, on sides adjacent to streets, retain the appearance of a single-family detached dwelling.
- 9.4.1.5** The ECHO Dwelling Unit shall provide adequate access for emergency vehicles.
- 9.4.1.6** The ECHO Dwelling Unit shall meet all applicable construction codes for a dwelling.
- 9.4.1.7** One (1) additional off-street parking space shall be provided.
- 9.4.1.8** Separate sale or ownership of the ECHO Dwelling Unit from the primary dwelling on a lot or parcel is prohibited. No person who is not a relative of the property owner shall be permitted to reside in the ECHO Unit, except for a caregiver of the ECHO Unit occupant.
- 9.4.1.9** If the ECHO Unit is a separate removable structure like a manufactured home, the ECHO Unit must be removed from the property within six (6) months of the ECHO use ceasing. If the ECHO Unit is an expansion or alteration of a single-family structure, upon cessation of the ECHO use, the ECHO Unit shall no longer be considered a separate living unit and shall be considered to be incorporated into the single-family structure.

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**9.4.2 BUS SHELTERS**

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The purpose of these regulations is to ensure that bus shelters do not disrupt vehicular or pedestrian traffic flow; and that advertising on bus shelters conveys advertisers' messages while being harmonious in character with the surrounding neighborhood and not contributing to visual clutter. Bus shelters are permitted by Conditional Land Use permit in the R-1, R-2, R-3, R-4, M-1, M-2, M-3, I, and CR Districts, shall meet the following requirements:

- 9.4.2.1** Flashing, rotating, and intermittent lighting are prohibited.
- 9.4.2.2** Lighting shall be directed downward, shielded from view, focused on the sign, and of minimal wattage to avoid stray lighting.
- 9.4.2.3** Audio advertising is prohibited.
- 9.4.2.4** Advertising panels must be designed so as not to physically or visually obscure or impede the functionality or compromise public safety.
- 9.4.2.5** Bus Shelter Design
- 9.4.2.6** Shall not be placed in the clear vision area.
- 9.4.2.7** Lighting of the facility should be of a minimum wattage so as not to impair the vision of drivers or reflect on adjacent properties.
- 9.4.2.8** Shall provide adequate protection from precipitation, wind, and sun.
- 9.4.2.9** Shall provide clear view of the street and surrounding area.
- 9.4.2.10** Shall meet all ADA requirements.
- 9.4.2.11** All components shall be fabricated of high quality, durable, vandal, and graffiti resistant materials.
- 9.4.2.12** The use of solar power sources is highly encouraged.

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**9.4.3 EQUESTRIAN FACILITY (ACCESSORY)**

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Equestrian facilities accessory to a principal use are permitted by Conditional Land Use Permit in the R-3 and R-4 Districts and by Special Land Use permit in the M-2, M-3, CR and FR Districts, shall meet the following requirements:

- 9.4.3.1** Minimum lot size for private stables shall be ten (10) acres, with a minimum pasture or exercise area of one (1) acre per horse.
- 9.4.3.2** If horses are kept inside a building, one (1) stall shall be provided for each horse. Minimum stall area is ten (10) feet by ten (10) feet.
- 9.4.3.3** Stables, corrals, and piles of manure, feed, and bedding shall be located at least one-hundred (100) feet from any street or lot line to minimize odor and nuisance problems, and this area shall be maintained in natural vegetation to control runoff.



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- 9.4.3.4** Manure piles shall be stored, removed, and/or applied in accordance with the Michigan Generally Accepted Agricultural and Management Practices (GAAMP) for Manure Management and Utilization, however, manure shall not be applied on land that is closer than one-hundred (100) feet to a residential lot line.
- 9.4.3.5** Corrals, unvegetated exercise areas, manure piles, and manure application are prohibited in areas with slopes greater than five (5) percent, in ten (10) year floodplains, adjacent to waterways, and in wetlands.
- 9.4.3.6** Manure shall not be stockpiled closer than one-hundred (100) feet to a well or surface water.

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### **9.4.4 GREENHOUSES AND AQUACULTURE SYSTEMS (ACCESSORY)**

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Greenhouses and aquaculture systems that are an accessory use are permitted by Conditional Land Use permit in the R-1, R-2, M-2, and M-3 Districts shall meet the following requirements:

- 9.4.4.1** Allowed as an accessory building to principal use with a maximum size of 400 square feet.
- 9.4.4.2** Shall meet generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture per the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.
- 9.4.4.3** Subject to applicable provisions of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106, as amended.
- 9.4.4.4** Shall meet all Health Department and MDEQ standards, as applicable.
- 9.4.4.5** If within three hundred (300) feet of a dwelling unit, the use must be screened and buffered as provided for in Section 5.6.C or Section 5.6.G.
- 9.4.4.6** No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
- 9.4.4.7** All lighting shall be down-shining and shielded from other properties and roadways.
- 9.4.4.8** Parking and signage shall be as required in Article 5, Section 5.5 and Article 5, Section 5.7 respectively.
- 9.4.4.9** Site shall be designed and maintained so that all wastes will not drain onto adjacent property.

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### **9.4.5 HOME OCCUPATIONS (ACCESSORY)**

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Home Occupations that are accessory to a principal residential use are permitted by Conditional Land Use Permit in the R-1, R-2, R-3, R-4, M-1, M-2, M-3, CR and FR Districts shall meet the following requirements:

- 9.4.5.1** Uses Allowed: Uses that comply with all of the standards of this subsection will be allowed as home occupations unless they are specifically prohibited. The home occupation must be clearly subordinate and incidental to the use of the dwelling as a dwelling unit, and no more than one home occupation is permitted in a dwelling.

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- 9.4.5.2** Size: A home occupation may not occupy more than twenty-five percent (25%) of the gross area of any one story used for the home occupation.
- 9.4.5.3** Prohibited Uses: The following uses are prohibited as home occupations in all districts.
- A) Vehicle and Large Equipment Storage/Repair: Any type of repair, assembly or storage of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to motor vehicles and their parts.
  - B) Restaurants are prohibited as home occupations in all districts.
  - C) Kennels and Stables are prohibited as home occupations in all districts.
- 9.4.5.4** Resident Operator: The operator of a home occupation must be a full-time resident of the subject dwelling unit and be on the premises during the hours of operation of the home occupation.
- 9.4.5.5** Employees: A maximum of one (1) nonresident employee may be on the premises at any one time. For the purpose of this provision, the term “nonresident employee” includes an employee, business partner, co-owner, independent contractor, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
- 9.4.5.6** Location: All work areas and activities associated with home occupations must be conducted and located inside the principal dwelling unit, or in accessory buildings or garages. If in a detached accessory structure, the space allocated to the home occupation shall not exceed four hundred (400) square feet.
- 9.4.5.7** Exterior Appearance: There may be no visible evidence of the conduct of a home occupation when viewed from the street right-of-way or from an adjacent lot, except there may be one (1) non-illuminated sign advertising the home occupation, no larger than two (2) square feet and firmly affixed to the dwelling unit as a wall sign. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation or the site upon which it is conducted that will make the dwelling appear less residential in nature or function. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting or signs.
- 9.4.5.8** Operational Impacts: No home occupation or equipment used in conjunction with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage, or light beyond that customary for residential uses that is perceptible beyond the lot line of the lot upon which the home occupation is conducted. No hazardous substances may be used or stored in conjunction with a home occupation.
- 9.4.5.9** Retail Storage, Sales and Display: No stock-in-trade may be stored, produced or sold upon the premises, other than within the allowed area used for the home occupation.
- 9.4.5.10** Deliveries: Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. Tractor-trailers or semi-trucks are expressly prohibited.

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- 9.4.5.11** Traffic: No traffic shall be generated by any home occupation in greater volume than would normally be expected in a residential neighborhood.
- 9.4.5.12** Registration: Any person conducting a home occupation shall register with the Zoning Administrator, on a form to be provided by the Zoning Administrator, within thirty (30) days of beginning that use, or within sixty (60) days of the effective date of this *Ordinance*, whichever is later.

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### **9.4.6 OUTDOOR DISPLAY AND SALES (ACCESSORY OR TEMPORARY)**

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Outdoor Display and Sales of merchandise as an accessory use to a principal nonresidential use or as a temporary use is permitted by Conditional Land Use permit in the M-1, M-2, and M-3 districts shall meet the following requirements:

- 9.4.6.1** Accessory outdoor sales and displays shall occupy no greater than  $\frac{1}{4}$  the gross floor area of the use.
- 9.4.6.2** Outdoor storage is prohibited, unless enclosed by a fence or wall adequate to conceal such storage from an adjacent Residential use or zone, open space use or zone, or public right-of-way.

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### **9.4.7 OUTDOOR FOOD AND BEVERAGE SERVICE (ACCESSORY OR TEMPORARY)**

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Outdoor Food and Beverage Service as an accessory use to a principal nonresidential use or as a temporary use is permitted by right in the M-3 and I Districts; and permitted by Special Land Use permit in the R-1, M-1, and M-2 districts shall meet the following requirements:

- 9.4.7.1** Any area proposed to be used for outdoor food and beverage service in accordance with this Section shall be accurately delineated on applicable site or development plans, including detail of the locations and sizes for all proposed furnishings such as tables, chairs, trash containers, umbrellas, awnings, planters, landscaping, and lighting. The outdoor food and beverage service area shall be contiguous to the eating and drinking establishment to which it is accessory.
- 9.4.7.2** The proprietor shall be responsible for ensuring five (5) feet clearance for pedestrians at all times through the property on the public sidewalk if applicable, including the removal of bicycles, wheeled carts, and other items placed by patrons which obstruct this path.
- 9.4.7.3** All activities and furnishings must be located at least twenty-five (25) feet from an intersection, measured from the curb, and at least two (2) feet from the edge of the curb.
- 9.4.7.4** Any enclosure delimiting the area shall be no more than forty-two (42) inches tall, except that temporary canvas awnings or umbrellas may serve as sun shades.
- 9.4.7.5** Tables, chairs, and all other furnishings or accessories may be left in place overnight during seasonal operation, but shall be removed whenever outdoor dining is not in seasonal operation. It shall be the responsibility of the licensee to secure furnishings and accessories that are left in place overnight.
- 9.4.7.6** Service is prohibited between 11 pm and 7 am.

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- 9.4.7.7** Furniture shall be weatherproof and in good repair at all times, and must be removable (temporary).
- 9.4.7.8** Outdoor heaters, busing stations, trash receptacles, food preparation stations, and music shall not be permitted in the outdoor dining facility.
- 9.4.7.9** Carpeting, artificial turf, and platforms shall not be permitted at any time.
- 9.4.7.10** The licensee is responsible for keeping the premises clean at all times, including the public sidewalk (if within the outdoor service area) and outdoor furnishings. At no time should trash or debris be blown, swept, or otherwise deposited into the street. The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited.

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### **9.4.8 OUTDOOR STORAGE (ACCESSORY OR TEMPORARY)**

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Outdoor Storage (unenclosed) as an accessory use to a principal nonresidential use or as a temporary use is permitted by Special Land Use permit in the R-3, R-4, M-2, CR and FR districts shall meet the following requirements:

- 9.4.8.1** Materials may be stored only in the side or rear yards, except that materials may not be stored on the street side of a corner lot or in any required yard.
- 9.4.8.2** All exterior storage shall be screened so as not to be visible from adjacent properties and rights-of-way with Buffer Type D1 as detailed in Section 5.6.5.4.A.
- 9.4.8.3** Materials stored outdoors shall be stacked no higher than twelve (12) feet, but shall not be stacked higher than the visual screen facing a public right-of-way.
- 9.4.8.4** Materials shall not be stored closer than fifty (50) feet to a property line.

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### **9.4.9 PAVED OUTDOOR RECREATION FACILITIES (ACCESSORY)**

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Paved Outdoor Recreation Facilities (such as trails or ball courts) as an accessory use are permitted by right in all districts except they are permitted by Special Land Use Permit in the R-1, M-1, M-2, M-3, CR and FR Districts shall meet the following requirements:

- 9.4.9.1** Run-off from paved surfaces shall be collected in natural filtration areas such as rain gardens and bioswales planted with perennial native plants, not turf grass.
- 9.4.9.2** Permeable pavement or surfacing materials shall be utilized.

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### **9.4.10 POULTRY KEEPING AND PRODUCTION (ACCESSORY)**

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Poultry keeping and production as an accessory use is permitted by right in the I district; and permitted by Conditional Land Use permit in the R-1, R-2, R-3, R-4, M-2, CR and FR Districts, shall meet the following requirements:

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### **9.4.10.1 PERMITS**

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- A) Any person who keeps chickens in Bessemer Township shall obtain a permit from the Township prior to acquiring the chickens.
- B) Written statements waiving the distance requirement in subsection 9.4.10.2 below shall also be submitted at the time of application and become a part of the permit if issued. Application shall be made to the Township Clerk and the fee for the permit shall be as determined by Board resolution.
- C) Permits expire and become invalid five (5) years after the date of issuance. A person who wishes to continue keeping chickens shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.
- D) Notwithstanding the issuance of a permit by the Township, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

### **9.4.10.2 REQUIREMENTS**

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- A) The principal use of the person's property is for a single-family dwelling or two-family dwelling.
- B) No person shall keep any rooster.
- C) The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fenced enclosures are subject to all provisions of Section 5.6.
- D) A person shall not keep chickens in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two family structure and extending to the side lot lines.
- E) No covered enclosure or fenced enclosure shall be located closer than ten (10) feet to any property line of an adjacent property;
- F) All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
- G) All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
- H) For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street. A covered enclosure or fenced enclosure shall not be located closer than forty (40) feet to any residential structure on an adjacent property provided, however, this requirement can be waived as follows:

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- 1) If the principal use of applicant's property is for a single-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners that there is no objection to the issuance of the permit.
- 2) If the principal use of the applicant's property is for a two-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners and of the occupants of the other dwelling stating that there is no objection to the issuance of the permit.
- 3) If the above requirements are not complied with, the Township may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

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### **9.4.11 SWIMMING POOLS**

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Swimming Pools as an accessory use are permitted by Conditional Land Use permit in the R-1, R-2, R-3, R-4, M-2, M-3, and CR Districts, shall meet the following requirements:

**9.4.11.1** Pools used for swimming or bathing and all fencing, gates, or other barriers around them shall be in conformity with the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972*, as amended, being *MCL 125.1501, et seq.*

**9.4.11.2** Swimming pools shall conform with the following requirements:

- A) The yard setback requirements as required for accessory uses and structures in this Ordinance.
- B) Shall not be located over a septic system, drain field, or on any area designated by the District Health Department as reserved for a replacement drain field unless approved by the District Health Department.
- C) No lights shall be erected, operated, or maintained in connection with a swimming pool in such a manner as to create a nuisance or hazard to nearby properties.
- D) Service drop conductors and any other open overhead wiring shall not be located above a swimming pool.
- E) No swimming pool shall be used unless adequate public health measures are periodically taken to ensure that use of the pool will not cause the spread of disease.
- F) All swimming pools shall be enclosed by a fence meeting the requirements of Section 5.6.9, and including a self-latching gate capable of being securely locked.
- G) Water shall not be allowed to drain on adjacent properties.

**SECTION 9.5      STANDARDS FOR TEMPORARY CONDITIONAL AND SPECIAL LAND USES**

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**9.5.1            FOOD STANDS**

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Food stands selling homegrown products are permitted by right in the R-4, CR and FR Districts. Food stands are permitted by Conditional Land Use Permit in the R-1, R-3, M-1, M-2, M-3 and I Districts shall meet the following provisions:

- 9.5.1.1**        Shall furnish space for customer vehicles outside the road right-of-way in the ratio of one (1) parking space for each fifteen (15) square feet of roadside stand floor area, with a minimum of three (3) off-street parking spaces.
- 9.5.1.2**        Shall be located at least twenty-five (25) feet from the edge of the road and any property line.
- 9.5.1.3**        Shall be seasonally erected and removed when sales are not in progress.

**9.5.2            TRANSIENT AMUSEMENT ENTERPRISES**

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Transient Amusement Enterprises, such as circuses, carnivals, other transient amusement enterprises, music festivals, and similar temporary gatherings of people, permitted by Conditional Land Use Permit in the M-1, M-2, M-3, I, and CR Districts shall meet the following requirements:

- 9.5.2.1**        Shall be approved by the Planning Commission, upon the finding by the Planning Commission that the location of such activity will not adversely affect adjoining properties or adversely affect public health, safety, morals, or general welfare.
- 9.5.2.2**        The Planning Commission may require conditions, or the posting of a bond or other acceptable security payable to Bessemer Township in an amount sufficient to hold the Township free of all liabilities incidental to the operation of such activity and indemnify any adjoining land owners for any damage resulting from operation of such activity. Such damages shall be provable before the court having jurisdiction over the premises upon which the damages occurred and shall be payable through such court.

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## **ARTICLE 10 PLANNED UNIT DEVELOPMENT (PUD)**

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### **SECTION 10.1 INTENT**

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The Planned Unit Development (PUD) is a zoning district intended to accommodate innovative and compatible land use developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or land which exhibits difficult or costly development problems, and shall not be allowed where Planned Unit Development approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives below.

The purpose of this Article is to permit innovation and variety in land use, design, and layout of property in order to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and address opportunities suited specifically to the needs of the residents of the Bessemer Township, provided such opportunities have complimentary economic, social and environmental impacts on surrounding land uses.

The Planned Unit Development (PUD) is intended to permit and control the development of preplanned areas for various compatible uses. The PUD provides a procedure by which the Township Board can hold pre-application conferences with the applicant before submission of preliminary site plans, saving resources by reducing the need for expensive design re-iterations. The procedure entails a discretionary review and approval procedure that results in approval if all standards of this Article are met and denial if they are not. The Zoning District does not change if a PUD is approved, but like a Special Use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are satisfied and the approved use continues. This process involves meeting eligibility criteria and established standards for approval through a site plan review procedure.

### **SECTION 10.2 PURPOSE**

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The applicant shall demonstrate that approval of the PUD would result in a recognizable and substantial benefit to the community that could not be achieved under the normal regulations of the District, satisfying one or more of the following objectives:

- To provide more desirable living, shopping, and working environments by preserving as much of the natural character of the property as possible, including but not limited to, open space, stands of trees, brooks, ponds, river and lake shorelines, floodplains, hills, and similar natural assets.
- To encourage the provision of open space and the development of recreational and other common facilities within reasonable distance of all seasonal and permanent dwelling units.



## *Bessemer Township Zoning Ordinance*

- The long-term protection or preservation of natural resources, natural features, historical elements, scenic vistas, or architectural features of a significant quantity or quality.
- Modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the Zoning District in which it is situated.
- The provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space, community gardens, orchards, or alternative energy systems.
- To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land uses, and utilities.
- To combine and coordinate architectural styles, building forms, and building relationships within the PUD.
- To more effectively accommodate the needs of diverse populations including but not limited to the needs of the aging population (through Universal Design), or low- to moderate-income residents (or single households) with affordable units.
- To permit more flexibility and innovation in the design, layout and type of development provided the development is consistent with the intent of the *Bessemer Township Zoning Ordinance* and the provisions of the *Bessemer Township Master Plan*.

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### **SECTION 10.3 GENERAL PROVISIONS**

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#### **10.3.1 RELATIONSHIP OF PUDS TO ZONING DISTRICTS:**

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Except as otherwise provided in other Sections of this Article, while PUDs are permitted in all Zoning Districts, the underlying Zoning District that applies to a particular parcel establishes the permitted uses and densities, as well as the basic limitations on height, bulk, setback, yard area and related requirements. Yet, the PUD process does allow for some flexibility in land uses, densities, height, bulk, setbacks, parking, signage, and related standards, allowing some standards to be waived or reduced as a part of the Site Plan Review and approval process for a PUD, provided such actions are within the parameters detailed in the remainder of this Article. Property subject to an approved PUD shall be labeled PUD on the zoning map.

#### **10.3.2 ELIGIBILITY REQUIREMENTS**

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No PUD shall be approved unless the applicant demonstrates, through written submittal, that the land use and development substantially advances objectives described in Section 10.2, and meets the eligibility requirements and the standards set forth in this *Ordinance*, and in addition that:

- 10.3.2.1** The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to Bessemer Township. Such benefit must otherwise be unfeasible or unlikely to be achieved under the standards of a single Zoning District.

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- 10.3.2.2** The PUD shall remain under the control or authority of a single individual, corporate, or organizational owner who is authorized to administer the PUD.
- 10.3.2.3** A PUD must be designed as a single development and shall be at least fifty percent (50%) completed within two (2) years, unless otherwise stated in the approved PUD permit.

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### **10.3.3 CALCULATING DENSITY**

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The permitted density on a specific parcel or parcels subject to a PUD application is first established by applying the minimum lot size in the underlying district to the buildable portion of the parcel or parcels and then applying a density bonus of not more than fifteen (15) percent as the design warrants and in the complete discretion of the Township Board with the recommendation of the Planning Commission. This density is achieved either by reducing the minimum lot size of the underlying district, or by clustering lots, or both, and is calculated as follows:

#### **10.3.3.1 CALCULATING BASE DENSITY**

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The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this *Ordinance* without a bonus or clustering. The whole number of lots that results from this calculation is the maximum number of lots or dwelling units that may be clustered on the site under this Section before any bonus is applied. This is calculated as follows:

- A) Divide the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements.
- B) Ensure that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer.
- C) Ensure that adequate right-of-way for a public road meeting Gogebic County standards is provided.
- D) Ensure that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune or high risk erosion regulations.
- E) No existing or proposed easement shall be counted as available for development.

#### **10.3.3.2 CALCULATING DENSITY INCREASES**

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To increase density, the site shall have direct access to a County/local road or state highway via a new public road built to Gogebic County Road Commission or MDOT standards. The increase will be determined in the following manner:

- A) Permitted density in terms of dwelling units per acre may be increased in a PUD up to fifteen (15) percent when the design of PUD demonstrates complete conformance with the requirements of this Article. No intensity increase is permitted for a PUD overlying a R-1 or M-1 district.
- B) The applicant shall receive a 5% bonus density for each of the following up to a maximum of fifteen (15) percent:

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- 1) Fifteen (15) percent more usable, common open space (not wetland) than the minimum required in Table 10-1.
- 2) A design that blends well with the natural environment and abutting lands and utilizes alternative energy technology, or enhances community food production.
- 3) A design that is aesthetically pleasing and compatible with structures on abutting property.
- 4) A design that creates diversity of housing types with attention to Universal or affordable housing design.

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### **10.3.4 PERMITTED USES**

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**10.3.4.1** The following uses may be permitted within a residential planned unit development:

- A) All uses permitted by right, by Conditional Land Use Permit, or by Special Land Use Permit in the district in which the property is located and subject to all restrictions specified for that district except as modified by a PUD Permit.
- B) Recreation and open space, provided that the following uses may be set aside as common land for open space or recreation use under the provisions of this Section:
  - 1) Private recreational facilities such as golf courses, swimming pools, ski resorts, or other recreational facilities which may or may not be limited to the use of the owners or occupants of the lots located within the PUD, depending on what is permitted in the underlying District.
  - 2) Historic sites, parks, greenways, extensive areas with tree cover, lowlands along streams, or areas of rough terrain when such areas have natural features worthy of scenic preservation.

**10.3.4.2** The following uses may be permitted within a nonresidential planned unit development: All uses permitted by right, by Conditional Land Use Permit, or by Special Land Use Permit in the District in which the property is located and subject to all restrictions specified for that District except as modified by a PUD Permit. Limited permanent dwelling units may be permitted, especially if above ground floor commercial uses. All nonresidential PUDs shall have direct access to a paved public road.

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### **10.3.5 LOT REQUIREMENTS**

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**10.3.5.1** The site shall be not less than five (5) acres in area.

**10.3.5.2** Minimum yard restrictions of the Zoning District in which the project is located shall be maintained around the perimeter of the project.

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### **10.3.6 DEVELOPMENT REQUIREMENTS**

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## *Bessemer Township Zoning Ordinance*

- 10.3.6.1** In the case of a mixed-use PUD which includes a use permitted by right in the Zoning District, a building devoted primarily to such a permitted use must be built before or concurrently with any building devoted primarily to any use not permitted by right.
- 10.3.6.2** New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.
- 10.3.6.3** Minimum width of an individual lot in a cluster at the building line shall not be less than sixty (60) feet.
- 10.3.6.4** Dwelling units shall be separated from nearby farm structures by at least five-hundred (500) feet.
- 10.3.6.5** The PUD design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing county road or state highway.

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### **10.3.7 OPEN SPACE REQUIREMENTS**

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- 10.3.7.1** Required open space shall be dedicated to the public or set aside for common use of the owners and users within the PUD so that there are assurances that the required open spaces shall remain open.
- 10.3.7.2** If requested by the landowner, the Township Board may approve a PUD with open space that is not contiguous with the rest of the PUD if other benefits to the public are sufficiently great to warrant such consideration.
- 10.3.7.3** The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.
- 10.3.7.4** Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
- 10.3.7.5** Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.
- 10.3.7.6** Open space shall be designed and located for convenient use by residents of the development.
- 10.3.7.7** The open space may be retained by the original landowner or held in common by one or more of the new landowners.
- 10.3.7.8** Up to twenty (20) percent of the useable common open space may be used for septic drain-fields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.
- 10.3.7.9** The minimum amount of permanent common open space that shall be provided for each PUD by underlying District is listed in Table 10-1. Permanent common open space and maximum open space that is wetlands or open water in columns two and three of Table 10-1 respectively, shall be measured as a percentage of the total acreage of the land that makes up the PUD, except as otherwise provided in this Article.

**Table 10-1  
Minimum Permanent Common Open Space**

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<b>Underlying District</b>	<b>Minimum Permanent Common Open Space</b>	<b>Maximum Open Space that is Wetlands or Open Water</b>
CR, FR	75%	55%
R-3, R-4, M-2, I	50%	30%
R-2, R-1, M-3, M-1	35%	15%

**10.3.7.10**

All land designated and approved as common open space in a PUD shall remain as permanently protected open space. All open space, tree cover, recreational area, scenic vista, or other approved open land areas shall be either set aside as common land for the sole benefit, use, and enjoyment of present and future lot owners or residents within the PUD, or at the initiative of the applicant and acceptance by the appropriate public body, may be dedicated to the public as park land for the use of the general public. The Planning Commission shall determine which is most appropriate based on the following considerations:

- A) That open space land shall be legally conveyed from the tract owner or owners to a home owners association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, provided that permanent arrangements have been made for the maintenance of the land and any buildings thereon, and that an open space easement for said land may be conveyed to the public to assure that open space land shall remain open.
- B) That open space land may be voluntarily dedicated to the public for park or recreational purposes by the tract owner or owners, provided that the location and extent of the land conforms to the *Bessemer Township Master Plan*, that the land has appropriate characteristics and location such that it will be readily available to and desirable for public use, development, and maintenance, releasing the developer from further improvements.
- C) The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is reviewed and approved by the Township Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the *State of Michigan Conservation and Historic Preservation Easement Act, P.A. 197 of 1980, as amended (MCL 399.251)* or dedication to and acceptance of the open space by the Township or other public entity. Such conveyance shall assure, unless the land is dedicated to the Township and accepted by it, that the Township will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the Township Board and the property owner or homeowners association. Such conveyance shall also:
  - 1) Indicate the proposed allowable use(s) of the dedicated open space.
  - 2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space in the manner specified in the PUD approval.
  - 3) Provide standards for scheduled maintenance of the open space.

## *Bessemer Township Zoning Ordinance*

- 4) Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.
- 5) Bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the planned unit development.

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### **SECTION 10.4 APPLICATION, REVIEW, AND APPROVAL PROCESS**

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#### **10.4.1 APPLICATION PROCESS**

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##### **10.4.1.1 SITE PLAN**

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The application shall be accompanied by a Site Plan that conforms to the requirements of Section 14.3.2 for a Tier 3 Review of a Major Site Plan.

##### **10.4.1.2 PRE-APPLICATION CONFERENCE**

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A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission, the Zoning Administrator, and any planning consultant retained by the Township shall be held prior to submittal or review of any site plan for a PUD. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review *Ordinance* requirements as they apply to the site before the applicant investments in preliminary site designs.

##### **10.4.1.3 APPLICATION**

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An application for PUD shall be accompanied by the following documents and information:

- A) A PUD application form supplied by the Zoning Administrator, completed in full and accompanied by the appropriate fee.
- B) A Major Site Plan satisfying the requirements of Tier 3 Review per Section 14.3.4.6.
- C) A statement of compliance with the objectives, eligibility requirements, and other requirements contained in this Article and applicable standards in Article 5, General Provisions.

##### **10.4.1.4 APPROVAL PROCEDURES**

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## *Bessemer Township Zoning Ordinance*

- A) The Zoning Administrator shall review each application pursuant to the requirements of Section 14.3.2.2.D, and when it is determined to be complete, schedule it for a public hearing at a regular Planning Commission meeting, unless the applicant pays all of the costs for a special meeting.
- B) A notice of the public hearing shall be given pursuant to Section 14.4, and the first public hearing shall be conducted by the Planning Commission pursuant to the requirements of Section 14.4.B.
- C) The Planning Commission and Township Board, in their respective meetings, shall review the application, comments, the Site Plan, and other pertinent information received and shall make a determination in accordance with the criteria described in this Article, and such other standards contained in the *Ordinance* which relate to the PUD under consideration.
- D) The Planning Commission's recommendation shall be forwarded to the Township Board for final action.
- E) Prior to action on the request, the Township Board shall also conduct a public hearing, preceded by notice in the same manner as for the public hearing by the Planning Commission.
- F) The Township Board may, by majority vote of its members, deny, approve, or approve with conditions the application for PUD approval. Its decision shall be incorporated in a statement of conclusions relative to the PUD under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes shall be approved.
- G) Upon the approval, or approval with conditions by the Township Board, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions, if any, imposed by the Township Board.
- H) An appeal of a decision by the Township Board to approve, deny, or approve with conditions a PUD Permit application may be taken to Circuit Court, and may not first be appealed to the Board of Appeals.
- I) The zoning map shall have the notation "PDD" written on any parcel for which PUD approval has been granted and remains in effect.

### **10.4.1.5 BASIS OF DETERMINATION**

The Planning Commission and the Township Board, in their respective hearings, shall review the particular circumstances of the PUD application under consideration in terms of the following standards and shall recommend approval, or approve, respectively, a PUD only upon a specific finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this *Ordinance*:

- A) The PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- B) The PUD shall be designed in a manner to ensure healthful living conditions and adequate light, air, and accessibility for fire and police protection for the inhabitants and users of the development as well as adjacent Township residents.
- C) The PUD shall be consistent with the intent of the *Bessemer Township Master Plan*.
- D) The PUD shall not change the essential character of the surrounding area.

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- E) The PUD shall not be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other features of the planned use.
- F) The PUD shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion.
- G) The PUD site plan shall demonstrate a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, that are efficiently integrated into off-site potable water and wastewater public improvement plans, where public off-site facilities are available.
- H) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection, and roads are planned and programmed for the development proposed in the PUD site plan, and the development is appropriately located in relation to schools, police protection and other emergency services.
- I) The PUD shall be designed to preserve public vistas and existing important natural, historical, scenic, and architectural features of significance within the development.
- J) The PUD shall be designed so that its pedestrian, non-motorized, and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems.
- K) The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient, and that parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles and adequate space for turning around shall be provided.
- L) The PUD shall not result in any greater stormwater runoff to adjacent property after development than before.
- M) The design of the PUD shall exhibit a reasonable harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
- N) The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
- O) The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.
- P) The PUD shall conform to all applicable Township, County, State, and Federal requirements for that use.
- Q) The Applicant shall be in substantial compliance with any previously issued Zoning Permits and shall not otherwise be disqualified from receiving a permit under this *Ordinance*.
- R) All signs in a PUD shall comply with the requirements of Article 5, Section 5.7, except that the Township Board may approve different signage if a comprehensive sign plan for the proposed PUD is submitted that does not result in greater total sign area, or sign height, even though more signs are used, and is otherwise consistent with the intent and purpose of the sign regulations as determined by the Planning Commission.



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- S) The Planning Commission shall find that review of the Site Plan for the Planned Unit Development provides safe and convenient vehicular and pedestrian traffic within the site and that the proposed parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. All parking shall comply with the requirements of this *Ordinance*, except that where the overall integrity of the PUD would be improved with a waiver of parking design standards that do not undermine the intent and purpose of the parking regulations, then the Township Board may grant such waiver, however, the total number of required parking spaces cannot be reduced below that necessary to meet anticipated need.
- T) Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment. All landscaping shall comply with the requirements of this *Ordinance*, except that the Township Board may approve different landscaping if a comprehensive landscape plan for the proposed PUD is submitted that would result in a comparable or better design that is also consistent with the intent and purpose of the landscape regulations.

### **10.4.1.6 WAIVER OF PLANNED UNIT DEVELOPMENT STANDARDS**

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The Township Board, following the recommendation of the Planning Commission, may waive partially or wholly any of the standards for a PUD contained in this Article or other relevant standard in this *Ordinance* where all of the following findings are documented along with the rationale for the decision:

- A) No substantial public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
- B) The spirit and intent of the PUD provisions will still be achieved and there will be no increase in density or intensity of use of more than 5% above what is otherwise allowed in this Article, or of mass of buildings or structures, or of traffic that will be generated (beyond the amount that would be permitted without this waiver).
- C) No nuisance will be created.

### **10.4.1.7 REQUIREMENT OF CONDITIONS**

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The Planning Commission may recommend, and the Township Board may impose, conditions with the approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this *Ordinance*. Such conditions shall be considered an integral part of the PUD approval and shall conform with the requirements for Conditional Approvals and Performance Guarantees/Bonding in Article 14.

## **SECTION 10.5 PREVIOUSLY APPROVED PLANNED UNIT DEVELOPMENTS**

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A PUD approved by Bessemer Township prior to the adoption or amendment of this *Ordinance* may be amended only through the filing and approval of a new application under this Article. The application shall be considered under the current standards of this *Ordinance*, rather

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than the standards in effect at the time of the original approval. If the application is denied, the previously approved PUD shall remain valid even if the underlying district has been changed.

### **SECTION 10.6 PERMIT DETAILS**

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#### **10.6.1 PERMIT VALIDITY**

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A Zoning Permit authorizing a PUD (hereafter referred to as a PUD Permit) shall be valid for a period of one (1) year from the date of issuance, unless another, longer time period is set by the Township Board as a condition of approval. If the use has not commenced by the end of this time period, the permit shall expire automatically without any further action or notice by the Township unless an extension is granted pursuant to Section 14.3.3.2.B.

#### **10.6.2 PERMIT REVOCATION**

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In the event the Township Board believes the holder of a PUD Permit has failed to comply with one or more of the terms or conditions of the permit or of this *Ordinance*, the Township Board may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen (15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder shall be allowed to appear at the hearing and to present evidence pertinent to whether the permit should be revoked. If the Township Board decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this *Ordinance*.

#### **10.6.3 PERMIT TRANSFERABILITY**

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A PUD Permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property. A PUD permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes for which the PUD was granted as long as all conditions and terms of the permit are satisfied. Permit transfer is automatic, provided that within sixty (60) days of acquiring ownership the new owner registers his intent to continue the PUD with the Zoning Administrator on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable *Ordinance* requirements that apply to the property and any special conditions imposed upon the PUD when the transfer form is submitted.

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**10.6.4      TERMINATION OF A PUD IF THE USE CHANGES**

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If there is a change in the use of a property for which a PUD was issued, the PUD shall automatically terminate and the property shall only be used for a use permitted in the underlying District in which the property is located. A PUD including a seasonal use is also subject to termination, if the season passes in which the seasonal use would normally occur and a different use is in place instead.

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**10.6.5      RECORDING WITH REGISTER OF DEEDS**

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A PUD Permit, or expiration, revocation, or termination of a PUD permit, shall be recorded at the Gogebic County Register of Deeds.

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**10.6.6      ADHERANCE TO APPROVED SITE PLAN**

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Any property owner who fails to develop and maintain an approved PUD according to the approved Site Plan shall be deemed in violation of the provisions of this *Ordinance* and shall be subject to the penalties for same.

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**10.6.7      AMENDMENTS**

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Amendments to an approved Site Plan for a PUD shall be processed according to the procedures in Article 14.

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**10.6.8      SCHEDULED PHASING**

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- 10.6.8.1**      When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the open space development and the residents of the surrounding area.
- 10.6.8.2**      Each phase of the project shall be commenced within the schedule set forth on the approved Site Plan. One phase must be completed before beginning work on the next unless explicitly authorized during Site Plan approval. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the developer and approval of same by the Township Board.

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**10.6.9 REAPPLICATION**

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No application for a PUD Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence, or a falsehood previously relied upon by the Township which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

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**SECTION 10.7 HARDSHIP PUD (ALTERNATIVE TO USE VARIANCE)**

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**10.7.1 INTENT AND PURPOSE**

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It is the intent of this section to provide a site specific administrative remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates to the Township Board that (1) the applicant's property cannot be used for the purposes permitted in the Zoning District, (2) the plight is due to the unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

If and when a property owner meets the above four-part threshold burden of proof, it is not intended that any use may then be approved. Rather, this section is intended to authorize administrative relief to the minimum extent necessary to allow reasonable use of property on the particular site, which is compatible to the extent possible with the uses of adjacent properties.

In order to satisfy the finality requirement dictated by the Michigan Supreme Court in *Paragon Properties Company v. County of Novi, 452 Mich 568 (1996)*, a property owner shall not be required to seek variance relief at the Zoning Board of Appeals if relief is sought and denied under this Section.

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**10.7.2 APPLICATION**

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- 10.7.2.1** In addition to the information required for other variance requests, an application for a Hardship Planned Unit Development shall include a Site Plan and a summary of the facts which support each of the following conclusions:
- A) Applicant's property cannot be used for the purposes permitted in the Zoning District.
  - B) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
  - C) Applicant's suggested use would not alter the essential character of the area.

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D) Applicant's problem has not been self-created.

**10.7.2.2** At the end of each statement (a through d in Subsection 1 above) identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

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### **10.7.3 APPROVAL PROCEDURES**

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#### **10.7.3.1 PRE-HEARING CONFERENCE**

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- A) Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference. The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and shall proceed in as expeditious manner as possible after satisfying all the information needs.
- B) The purposes of the pre-hearing conference shall be to:
  - 1) Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
  - 2) Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
  - 3) Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals.
  - 4) Discuss the need, desirability, and the terms of providing a verbatim record of the hearing.

#### **10.7.3.2 HEARING**

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- A) Township staff or representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the Zoning District, and any planning, engineering, financial, environmental, or other considerations which are generally relevant within the Zoning District and/or in the general area of the property at issue.
- B) The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in Section 10.7.2.1, subsections a through d. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions.
- C) The Township Board may require the presence of any witness who has offered testimony to permit members of the Township Board to ask questions of these witnesses.
- D) At the conclusion of the applicant's presentation, hearing attendees shall be provided with the opportunity to present testimony and evidence in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
- E) When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and

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questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the Township Board for consideration as it relates to the specific application presented.

- F) The applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives, with the same procedure as provided above for the applicant's principal presentation.
- G) If a hearing is not completed at a given meeting within the time period allowed by the Township Board, the Township Board shall adjourn the hearing to a date certain for continuation.
- H) At the conclusion of the hearing, the Township Board may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- I) If the Township Board determines to grant a Hardship Planned Unit Development, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law. A motion to grant a Hardship PUD may be made as a tentative grant of relief, subject to review by the Planning Commission, Zoning Administrator, Township Engineer, or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Township Board, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

**ARTICLE 11: RESERVED FOR FUTURE USE**

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**ARTICLE 12: RESERVED FOR FUTURE USE**

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## **ARTICLE 13: NONCONFORMING LOTS, BUILDINGS, STRUCTURES, AND USES**

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### **SECTION 13.1 INTENT & PURPOSE**

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It is the intent of this Article to permit legal nonconforming lots, structures, or uses to continue until they are removed or terminated, but not to encourage their survival.

### **SECTION 13.2 APPLICABILITY**

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- 13.2.1** Legal Nonconforming: An existing lot, structure, building, sign, development, or use of an existing lot or structure is deemed nonconforming when it fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, sign, development, or use is located, but which was conforming (lawful) prior to the enactment of this *Ordinance* and became non-conforming on the effective date of adoption of this *Ordinance*, or an *Ordinance* text amendment or rezoning.
- 13.2.2** Legal Nonconforming: The provisions of this Section shall also apply to any existing uses that become nonconforming as a result of zoning district boundary changes.
- 13.2.3** Illegal Nonconforming: Nonconforming uses of structures or land existing at the effective date of this *Ordinance* that were established without zoning approval or without a valid building permit, or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this *Ordinance*, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.
- 13.2.4** Illegal Nonconforming: Lots or parcels which were established after the effective date of this *Ordinance* and are substandard in area, width, or depth are illegal lots of record and are not entitled to the status and rights accorded legally established nonconforming lots.

### **SECTION 13.3 ADMINISTRATION**

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#### **13.3.1 NONCONFORMING LOTS**

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- 13.3.1.1** In any District permitting residences, a single-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record that was recorded in the office of the County Register of Deeds before the effective date of this *Ordinance*, or before an amendment to this *Ordinance*, which made the lot nonconforming, provided such lots meet the

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requirements of Sections 13.3.1.2 and 13.3.1.3 below. No use of any nonconforming lot of record which was divided after the effective date of this *Ordinance* shall be permitted which created a lot with a width, depth, or area less than the requirements stated in this *Ordinance*.

**13.3.1.2** Where two or more vacant nonconforming lots were in common ownership on the effective date of this *Ordinance*, and have remained in common ownership since then, and were contiguous to one another alongside lot lines, such lots shall be considered as a single lot of record for purposes of this *Ordinance*, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this *Ordinance*, nor shall they be transferred or sold except in blocks that equal the original ownership interest, or in a combination of lots that meets the minimum requirements of the District in which they are located.

**13.3.1.3** Provided that adequate potable water and proper and safe septic or sewerage disposal can be provided, as determined by the District Health Department, the Zoning Administrator shall permit single lots of record or combinations of single lots of record (those in Section 13.3.1.2 above) that are nonconforming because they are substandard in area, width, or depth to be built on without variances provided the requirements for yards, width, depth, and area is no less than eighty (80%) percent of that required by the terms of this *Ordinance*.

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### **13.3.2 NONCONFORMING STRUCTURES**

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Where a lawful structure exists at the effective date of adoption or amendment of this *Ordinance* that could not be built under the terms of this *Ordinance* by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or location on the lot, such structure may continue so long as it remains otherwise lawful, subject to the following provisions:

**13.3.2.1** No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the District in which it is located, provided that all such changes are also in conformance with the requirements of the District in which it is located. Furthermore, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use and which existed at the time for adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.

**13.3.2.2** Should such structure be destroyed by any means it shall not be reconstructed except in conformity with the provisions of this *Ordinance*, unless it is impractical to do so, in which case it shall be rebuilt on not more than the building footprint at the time of destruction.

**13.3.2.3** Should such structure be moved for any reason for any distance whatever on the same or a different lot or parcel, it shall thereafter conform to the regulations for the District in which it is located after it is moved.

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- 13.3.2.4** Any structure, or structure and land in combination, in which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the District in which such structure is located and the nonconforming use may not thereafter be resumed.

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### **13.3.3 NONCONFORMING USES**

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Where, at the effective date of adoption or amendment of this *Ordinance*, lawful use of land exists that is made no longer permissible under the terms of this *Ordinance* as enacted or amended, such use may be continued in the same manner and to the same extent as it existed when it became nonconforming, and so long as it remains otherwise lawful, subject to the following provisions:

- 13.3.3.1** No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land, nor a greater height, than was occupied at the effective date of adoption or amendment of this *Ordinance*.
- 13.3.3.2** Except in the case of gravel extraction operations, existing holes may be worked and enlarged on the land which constituted the lot or parcel on which operations were conducted at the time of becoming nonconforming. However, no new holes shall be established unless a Special Use Permit is obtained pursuant to the procedures of Article 14 and the applicable standards of Article 9.
- 13.3.3.3** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Article, nor to any other lot or parcel, unless reestablished in conformance with the requirements of this *Ordinance*.

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### **13.3.4 REPAIRS AND MAINTENANCE**

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On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage of this *Ordinance* or an amendment to it shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

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**13.3.5 CHANGE OF TENANCY OR OWNERSHIP**

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A nonconforming building, structure, use, or lot may be sold or a tenant may change with the nonconforming use right intact, provided that the physical dimensions of the nonconforming lot or the use of the nonconforming structure or lot do not result in a change contrary to the requirements of this Article.

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**13.3.6 CHANGE OF STATUS**

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In the event that any nonconforming use of land or use of a structure is occupied at any time during the nonconforming status by a conforming use, the nonconforming status shall discontinue. Any subsequent use shall conform to the uses permitted in the District in which the premises are located. Vacancy of the property alone does not discontinue nonconforming status.

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**13.3.7 ELIMINATION OF NONCONFORMING USES**

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Property owners are strongly encouraged to make changes to their property over time, which bring it into conformance with this *Ordinance*. The Township may eliminate any and all nonconforming uses it deems necessary to advance the public health and safety interests of the citizens of the Township by whatever means are provided by law in such cases.

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## **ARTICLE 14: ZONING ADMINISTRATION**

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### **SECTION 14.1 OVERVIEW, INTENT, AND PURPOSE**

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This Article sets forth the provisions and the requirements for submittal, review and approval of applications under this *Ordinance* and for addressing complaints, suspending and revoking permits. These provisions are intended to clearly describe administrative duties and responsibilities, permit procedures and conditions to improve citizen and property owner understanding and to ensure efficiency in the administration of the *Ordinance*.

### **SECTION 14.2 DUTIES AND PROCEDURES**

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The provisions of this *Ordinance* shall be administered by the Township Board, the Township Planning Commission, Township Zoning Administrator, the Zoning Board of Appeals, and the Township Attorney in accordance with the *Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended*, and the delegation of responsibility assigned by this *Ordinance*.

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#### **14.2.1 TOWNSHIP BOARD**

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The Township Board shall have the primary responsibility for supervision of the administration and enforcement of the *Ordinance*. In order to carry out this responsibility, the Township Board may adopt and file rules, guidelines, and forms to assist the Zoning Administrator and the Township Planning Commission in administering and enforcing this *Ordinance*. Until such rules or guidelines are adopted, any existing rules, guidelines, the *Zoning Ordinance*, and the *Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended*, shall guide the administration of this *Ordinance*.

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##### **14.2.1.1 PROVISIONS PERTAINING TO TOWNSHIP BOARD PROCESS**

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A majority vote of the entire membership of the Township Board is required to adopt a proposed *Ordinance* or *Ordinance* amendment.

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##### **14.2.1.2 PROVISIONS PERTAINING TO TOWNSHIP BOARD DUTIES**

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This Section shall not be construed to diminish the Township Board's authority and duties imposed by other laws or regulations.

##### **A) REQUIRED DUTIES**

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The Township Board *shall* perform the following duties in relation to this *Ordinance*:

- 1) Shall consider and vote upon the adoption of a *Zoning Ordinance* (with or without amendments) or proposed amendments to the zoning text and zoning map.
- 2) Grant a hearing on a proposed *Ordinance* provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the Township Board.
- 3) Set the amount of permit fees.
- 4) Appoint members to the Planning Commission.
- 5) Establish the terms of employment and rate of compensation for the Zoning Administrator.

### B) OPTIONAL DUTIES

The Township Board *may* perform the following duties in relation to this *Ordinance*:

- 1) Hold additional public hearings.
- 2) Refer suggested *Ordinance* changes back to the Planning Commission for further information or discussion.
- 3) Determine compensation for members of the Planning Commission.
- 4) Approve the engagement of the services of a planning expert to assist the Planning Commission and pay for those services.

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## **14.2.2 PLANNING COMMISSION**

### **14.2.2.1 PROVISIONS PERTAINING TO PLANNING COMMISSION MEMBERSHIP**

The Commission shall consist of five (5) members appointed by the Township Supervisor and approved by a majority vote of the Township Board.

#### A) QUALIFICATIONS

To be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

- 1) Shall be a qualified elector of Bessemer Township, except one non-qualified elector(s) may be a member of the commission.
- 2) Shall meet the conditions provided for each individual member in this section of this *Ordinance*, except the geographical location of the individual's residency may be considered optional.
- 3) One member of the Township Board shall be appointed to the Planning Commission as an ex officio member.
- 4) An ex-officio member shall not be chair of the Planning Commission.

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- 5) Within twelve (12) months after an individual's first appointment and before reappointment, members shall attend Planning Commission training as approved by the Township Board.

### B) REPRESENTATION

- 1) The membership shall be representative of the important segments of the community (two or more interests may be combined into one seat), such as the economic, governmental, educational, and social development of Bessemer Township, as follows:
  - a. Agriculture;
  - b. Natural resources;
  - c. Recreation;
  - d. Education;
  - e. Public health;
  - f. Government;
  - g. Transportation;
  - h. Industry;
  - i. Commerce;
  - j. Renewable energy and energy conservation;
- 2) The membership shall also be representative of the entire geography of Bessemer Township to the extent practicable, and as a secondary consideration to the representation of the major interests.
- 3) The Commission, in its Bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain Bessemer Township officials ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum liaisons shall include:
  - a. Township Supervisor
  - b. Zoning Administrator
  - c. Township Attorney
  - d. Township or County Department Heads or Staff
  - e. Public Safety Officials

### C) APPOINTMENT AND TERMS

- 1) Members shall be appointed to three-year terms such that, as nearly as possible, the terms of one-third of all commission members will expire each year.
- 2) In January of each year the Township Clerk shall determine which members' terms of office shall expire and the Township Board will make the appropriate appointments. A member shall hold office until his or her successor is appointed.

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- 3) If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.
- 4) The term of the Ex Officio Member shall coincide with their elected term of office or the term of office of the elected official who appointed them.

### D) REMOVAL FROM OFFICE

The Township Board may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Repeated failure to attend Commission meetings shall be considered nonfeasance in office. The Chair of the Planning Commission shall report any member who has missed three regular meetings in a row to the Township Board.

## **14.2.2.2 PROVISIONS PERTAINING TO PLANNING COMMISSION PROCESS**

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### A) COMPENSATION

Compensation of Planning Commission members will be at the discretion of the Township Board.

### B) MEETINGS

- 1) The Commission shall meet as needed but a minimum of four (4) regular meetings annually.
- 2) A majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission. All questions which shall arise at their meetings shall be determined by a majority vote of the Planning Commission members. The affirmative vote of two-thirds of the total number of seats for the Commission, regardless of vacancies or absences, shall be necessary for the adoption, or recommendation for adoption, of any plan/ordinance or amendment to a plan/ordinance.
- 3) Member(s) shall not be absent for more than three (3) consecutive regular meetings unless excused by the Chairperson. In the case of three consecutive unexcused absences, the Chair of the Planning Commission shall notify the Township Board by letter of the non-compliance with attendance criteria. The Township Board may recommend the removal of said member from the Planning Commission. In the case of extenuating circumstances such as a serious or chronic health condition or family illness, the Planning Commission may, by motion and simple majority vote, approve continued absences without removal of the member.
- 4) The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the *Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, as amended*. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.



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- 5) A writing prepared, owned, used, in the possession of, or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the *Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as amended.*

### C) STAFF

Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

### **14.2.2.3 PROVISIONS PERTAINING TO PLANNING COMMISSION DUTIES**

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This Section shall not be construed to diminish the Planning Commission's authority and duties imposed by the *Michigan Planning Enabling Act, Public Act 33 of 2008, as amended*, or by other laws or regulations.

### A) REQUIRED DUTIES

The Planning Commission *shall* perform the following duties:

- 1) Adopt Bylaws for the transaction of business including the election of officers and rules of procedure consistent with the *Michigan Planning Enabling Act, Public Act 33 of 2008.*
- 2) Elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. The term of office of each officer shall be one year with the opportunity for reelection as specified in the By-Laws.
- 3) Keep a public record of its resolutions, transactions, findings, and determinations.
- 4) Make an annual written report to the Township Board concerning its operations and the status of planning activities, including administration and enforcement of the *Ordinance* and recommendations for amendments or supplements to the *Ordinance.*
- 5) Prepare forms, rules, procedures, and guidelines for the proper administration and enforcement of the *Ordinance* which are to be forwarded to the Township Board for action prior to implementation.
- 6) Conduct public hearings on matters requiring a public hearing, or which in the Planning Commission's discretion warrant a public hearing, prior to action.
- 7) Shall make and approve a master plan as a guide for development within the Township, or areas outside the Township boundaries that in the Planning Commission's judgment are related to the planning of the Township as provided for in the *Michigan Planning Enabling Act, Public Act 33 of 2008.*

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- 8) Make a comprehensive review and recommend changes to the Master Plan and/or Zoning Ordinance as deemed necessary but at least once every five (5) years.
- 9) Annually prepare a capital improvements program of public structures and improvements subject to approval by the Township Board.
- 10) Review and take appropriate action on all proposed public improvements.
- 11) Review and take appropriate action on all applications for zoning text change, rezoning, conditional rezoning, special land use permits, subdivision plats, and PUD permits.
- 12) Review and advise the Township Board on all applications for amendments to the *Ordinance* and on any amendments proposed by the Planning Commission.
- 13) Advise and make recommendations to the Township Board concerning future amendments, changes, additions, or departures from the *Ordinance*.
- 14) Review and make recommendations on plats before action by the Township Board under section 112 of the *Land Division Act, 1967 PS 288, MCL 560.105, as amended*.

### B) OPTIONAL DUTIES

The Planning Commission may perform the following duties:

- 1) May prepare and adopt functional plans or subplans for portions of the community.
- 2) After preparing the annual report, may prepare a detailed Planning Commission budget and submit the budget to the Township Board for approval or disapproval.
- 3) May appoint advisory committees whose members are not members of the Planning Commission.
- 4) May recommend to the Township Board provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the *Land Division Act, 1967 PS 288, MCL 560.105, as amended*.
- 5) May engage the services of a planning expert subject to approval by the Township Board.

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### **14.2.3 ZONING ADMINISTRATOR**

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#### **14.2.3.1 PROVISIONS PERTAINING TO ZONING ADMINISTRATOR EMPLOYMENT**

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The Township Board shall employ a Zoning Administrator (who may be the Township Supervisor) to act as its officer to effect the proper and consistent administration and enforcement of this *Ordinance*. The terms of employment and rate of compensation shall be established by the Township Board.

#### **14.2.3.2 PROVISIONS PERTAINING TO ZONING ADMINISTRATOR PROCESS**

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##### A) TRAINING

Each Zoning Administrator shall successfully complete training on the roles and responsibilities of the office and how to perform all basic tasks within twelve (12) months of appointment as Zoning Administrator, as approved by the Township Board.

##### B) RELIEF FROM PERSONAL RESPONSIBILITY

The Zoning Administrator, officer or employee charged with the enforcement of this *Ordinance*, while lawfully acting for the Township, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his or her official duties. Any suit instituted against the Zoning Administrator, or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his or her duties and under the provisions of the *Ordinance* shall be defended by the Township Attorney, or other legal representative of the Township, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his or her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the *Ordinance*; and the Zoning Administrator, any officer or employee acting on behalf of the Zoning Administrator acting in good faith and without malice, shall be free from liability for lawful acts performed under any of its provisions or by reason of any act or omission in the lawful performance of his or her official duties in connection herewith.

#### **14.2.3.3 PROVISIONS PERTAINING TO ZONING ADMINISTRATOR DUTIES**

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It shall be the responsibility of the Zoning Administrator and his or her employees to be thoroughly versed in the provisions of this *Ordinance* and to enforce the provisions of this *Ordinance*. The Zoning Administrator shall have all administrative powers in connection with the administration of the *Ordinance*, which are not specifically assigned to some other officer or body. The Zoning Administrator or his or her

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deputized agents shall have the power of a police officer, whose jurisdiction is the enforcement of the *Ordinance*. The Zoning Administrator shall have no power to vary or waive *Ordinance* requirements.

### A) REQUIRED DUTIES

The Zoning Administrator shall, among other responsibilities, be empowered to perform the following duties:

- 1) **Attend Meetings:** The Zoning Administrator shall attend Planning Commission, Zoning Board of Appeals, and such other meetings related to administration of this *Ordinance* as necessary or when requested.
- 2) **Assist citizens:** Help citizens determine what zoning forms and procedures apply to proposed zoning requests and land use changes, and aid them in completing required permit application forms. Help citizens with an alternate procedure if the request is not in compliance.
- 3) **Review Applications:** Receive and review all permit application forms to determine level of completion and level of compliance with the provisions of the *Ordinance*.
- 4) **Reports and Recommendations:** Review all requests for administrative or legislative action and forward an analysis of site factors and other information pertaining to the request to the appropriate body. The analysis may include a recommendation for action.
- 5) **Issue Permits:** For permits requiring only administrative approval, the Zoning Administrator shall be authorized to issue the appropriate Zoning Permits provided the request complies with all applicable provisions of this *Ordinance*. The issuance of permits includes the authority to impose any condition authorized by this *Ordinance*. For permits requiring Planning Commission approval, the Zoning Administrator shall refer all complete applications to that body for review.
- 6) **File Applications:** The Zoning Administrator shall maintain files of all applications for zoning approval and for all Certificates of Zoning Compliance and shall keep records of all permit approvals and denials. Such files and records shall be open to public inspection. Copies shall be furnished upon request at a cost established by the Township Board.
- 7) **Inspections:** The Zoning Administrator, or authorized deputy, shall make as many inspections of buildings or premises as necessary in order to properly carry out the enforcement of this *Ordinance* or any permit, approval, or condition of a permit or approval, or order under this *Ordinance*. At a minimum the property shall be inspected upon staking for any building, and prior to occupancy.
- 8) **Non-Conforming Uses:** The Zoning Administrator shall identify, monitor, and control changes in nonconforming uses.
- 9) **Enforce the Zoning Ordinance:** The Zoning Administrator shall be the principal *Ordinance* enforcement officer. He/she shall ensure conformance with issued permits, investigate alleged *Ordinance* violations, including the conditions of permits or approvals, issue tickets and violation notices, appear in court or other jurisdictional proceedings, and undertake such other enforcement activities as may be delegated by the Township Board or Township Planning Commission. Other individuals may be hired for this purpose, or the task may be delegated to others who work under the supervision of the

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Zoning Administrator. Once a case is shifted to the Township Attorney or other legal representative retained for such purpose, the Zoning Administrator and Township Attorney or other legal representative shall share enforcement responsibility.

- 10) **Investigate Violations:** The Zoning Administrator shall issue violation notices and appearance summons, and work with the Township Attorney to seek the issuance of warrants for the arrest of alleged violators, or to enforce appropriate civil action for violation.
- 11) **Record of Complaints:** Keep a record of every complaint of a violation of any of the provisions of this *Ordinance* as a public record.
- 12) **Report to Township Board:** On behalf of the Planning Commission, the Zoning Administrator shall report to the Township Board periodically; and once a year, shall summarize for the period since the last previous report, the number of requests for zoning approval or enforcement, including the number of requests approved, approved with conditions, and denied, by type of request, including, zoning text changes, rezonings, conditional rezonings, zoning permits, conditional land use permits, special land use permits, PUD permits, all minor design modifications, administrative waivers, all complaints of violations, all interpretations made, and appeals and variances granted by the Zoning Board of Appeals. The Zoning Administrator shall include any recommendations regarding zoning changes or proposed amendments which would improve the content and/or enforcement of the *Zoning Ordinance*.
- 13) **Prepare Record of Decisions:** The Zoning Administrator shall establish notebooks or other records for listing each decision, waiver, interpretation, or enforcement action made under this *Ordinance*. This record shall be organized for easy reference by date and decision to help ensure consistency of future decisions.
- 14) **Prepare Forms, Manuals and Guidelines:** The Zoning Administrator with the assistance of the Planning Commission shall periodically prepare or update forms, procedure manuals, and guidelines for the smooth administration of the *Zoning Ordinance*. All such forms, manuals and guidelines shall be reviewed and approved by the Planning Commission and approved by the Township Board. A form, procedure or guideline may be implemented by the Zoning Administrator for not more than sixty (60) days after being established without Planning Commission or Township Board approval.

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### **14.2.4 ZONING BOARD OF APPEALS**

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It is the intent that all questions of interpretation and enforcement of the *Ordinance* shall first be presented to the Zoning Administrator, and that such questions shall be presented to the Zoning Board of Appeals (also known as the Board of Appeals or ZBA) only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the ZBA shall be to the Circuit Court as provided by law. The Zoning Board of Appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

#### **14.2.4.1 PROVISIONS PERTAINING TO ZONING BOARD OF APPEALS MEMBERSHIP**

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##### A) MEMBERSHIP

- 1) All regular or alternate members of the Bessemer Township Zoning Board of Appeals shall be electors of Bessemer Township and residing within the boundaries of Bessemer Township. The members shall be representative of the population distribution and of the various interests present in Bessemer Township.
- 2) The Zoning Board of Appeals shall consist of five regular (5) members and one (1) alternate member appointed by a majority vote of the members of the Township Board.
  - 14.2.4.1.A.2.1 One (1) of the regular members shall also be a member of the Bessemer Township Planning Commission.
  - 14.2.4.1.A.2.2 One (1) of the regular members or the alternate member may also be a member of the Township Board, however, such member shall not serve as chairperson. An employee or contractor of the Township Board shall not serve as a member of the ZBA.

##### B) TERMS

The terms of office for members appointed to the ZBA shall be for three (3) years, except for members serving because of their membership on the Township Board, whose terms shall coincide with their elected term of office. Alternate members shall serve the same term as regular members. Vacancies shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The three (3) year appointments shall be made such that there are staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired.

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### **14.2.4.2 PROVISIONS PERTAINING TO ZONING BOARD OF APPEALS PROCESS**

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#### A) OFFICERS

The Board of Appeals shall select a Chairperson and a Vice-Chairperson from among the membership.

#### B) ALTERNATE MEMBERS

An alternate member may be called to serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Board of Appeals has the same voting rights as a regular member.

#### C) ATTENDANCE

Since regular attendance is required for optimal function of the Board of Appeals, members of the Board are appointed subject to the following attendance criteria:

- 1) Member(s) shall be expected to notify the Chairperson or his/her designee of his/her expected absence prior to a meeting. For an alternate to be called, the regular member should notify the Chair of the ZBA two weeks prior to the meeting which he/she cannot attend. The secretary shall request that an alternate member attend the meeting.
- 2) Member(s), unless excused by the Chair, shall not be absent for more than two (2) consecutive meetings, irrespective of calendar year.
- 3) The Board of Appeals secretary shall be responsible to report the non-compliance of attendance criteria of any Board of Appeals member to the Chair.
- 4) The Chair of the Board of Appeals shall notify the Township Board in writing of any non-compliance with attendance criteria, including recommended action.
- 5) Under extenuating circumstances, such as a serious or chronic health condition, or family illness, the Board of Appeals may, by motion and majority vote, defer the action specified above. Said member is exempt from voting privileges in the action.

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### D) MEETINGS

Meetings of the Board of Appeals shall be held at the call of the Chair, and at other times as the Board in its rules of procedure may specify. There shall be a fixed place for each meeting, and all meetings shall be open to the public.

### E) CONDUCTING BUSINESS

A Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.

### F) VOTING

- 1) All members of the Board of Appeals present at a meeting shall vote on every matter unless a member of the Board has a conflict of interest. A member of the Board of Appeals shall abstain from a vote in which the member has a conflict of interest, and the member shall state the nature of the conflict of interest prior to participating in a hearing on the matter.
- 2) The concurring vote of a majority of all the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant on a matter upon which they are required to pass under the *Zoning Ordinance*, or to grant a variance in the *Zoning Ordinance*.
- 3) A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

### G) KEEPING OF RECORDS

- 1) Minutes of all meetings shall be recorded and shall contain the grounds of every determination made by the Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case together with the votes of the members and final disposition of each case. Such minutes shall be filed in the Office of the Zoning Administrator, and shall be available to the public. The record of proceedings shall be contained in a file with the following information:
  - a. The application (for a permit, variance, interpretation, exception).
  - b. Any reports, plans, surveys, or photos.
  - c. Notice of Public Hearing to affected parties in newspaper.
  - d. Letter from Zoning Administrator granting or denying the application or referring it to the Board of Appeals and all other relevant records related to the case.
  - e. Affidavit of publication of Notice of Hearing.



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- f. Record of testimony heard and evidence presented.
  - g. A copy of the zoning Article(s) and Section(s) in question.
  - h. Briefs, correspondence or other communications made to or from the Board of Appeals, including any from the Township Attorney or other attorneys.
  - i. Statement of facts found by Board of its knowledge regarding the request including any information gained from personal inspection.
  - j. Decision of the Board as specifically related to the Findings of Fact.
  - k. A copy of any other correspondence to the appellant regarding the request.
- 2) At its discretion, the Board of Appeals may file its decision relative to a particular property with the Register of Deeds to run as a permanent record with the property which was the subject of the decision by the Board of Appeals.

### H) REMOVAL FROM OFFICE AND CONFLICT OF INTEREST

- 1) Members of the Board of Appeals shall be removable by the Township Board for nonfeasance, including nonperformance of duty, or misfeasance, including misconduct in office, or for malfeasance upon written charges and after public hearing.
- 2) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute malfeasance in office. A conflict of interest may include, but is not limited to considering property or adjoining property a Board of Appeals member owns or has a legal or financial interest in, or considering a request by a party with whom a Board member has close ties, such a family member, relative or close friend.

### **14.2.4.3 SCOPE OF POWERS ZONING BOARD OF APPEALS**

The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all the powers of the office or body from whom the appeal was taken, but no more. The Board of Appeals may issue or direct the issuance of a permit if, following a review of the facts, the relevant *Ordinance* requirements, and the prior decision of the Zoning Administrator/Building Inspector or Planning Commission, the Board of Appeals concludes the *Ordinance* requirements were not properly applied. The Board of Appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this *Ordinance* may be equitably achieved in order that there shall be uniform interpretation and flexibility in the enforcement of this *Ordinance* or to fulfill any other responsibilities bestowed upon the Board of Appeals by this *Ordinance*. At the same time, the Board of Appeals shall be aware that this responsibility does not extend to creating regulations, only to applying regulations, which is a narrow quasi-judicial responsibility, and not a legislative one. The power to adopt land use regulations rests solely with the Township Board, per the appropriate process. For example, the Board of Appeals shall not have the power to alter or change the zoning district classification of any property or to authorize any use of land not expressly permitted in the district, nor to make any change in the terms or intent of this *Ordinance*; these powers are reserved to the Township Board.

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### **14.2.4.4 PROVISIONS PERTAINING TO ZONING BOARD OF APPEALS DUTIES**

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#### A) REQUIRED DUTIES

The Zoning Board of Appeals *shall* perform the following duties:

- 1) Adopt rules of procedure or Bylaws to govern its procedures on such matters as officers, voting, conduct of meetings, and related matters as it may consider necessary or advisable.
- 2) Choose a Chair person, and in his or her absence, an Acting Chair person who may administer oaths and compel the attendance of witnesses.
- 3) Maintain a record of its proceedings which shall be filed in the office of the Township Clerk.
- 4) Hear and decide on matters referred to the Board of Appeals or upon which the Board of Appeals has been given authority under this *Ordinance*.
- 5) Hear and decide appeals from and review any administrative order, requirement, decision, or determination made by the Zoning Administrator or Planning Commission in enforcing this *Ordinance* where it is alleged there is error made in the enforcement of the *Ordinance*.
- 6) Interpret, upon request, the provisions of this *Ordinance* in such a way as to carry out the intent and purpose of this *Ordinance*.
- 7) The Board of Appeals shall have the power to make "Lot of Record" determinations in accordance with procedures detailed in Section 14.2.5.5.B.2.
- 8) Review Site Plan Review appeals per procedures detailed in Section 14.2.5.5.B.4.
- 9) The Board of Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for essential services, in any permitted district to a greater height or of larger or smaller area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service. The Board of Appeals may also impose setbacks, specify the location or character of fences, buffering or landscaping requirements as a condition of approval pursuant to standards in this *Ordinance* as may be reasonably necessary to protect abutting property from the potential nuisance effects of such essential services.
- 10) The Board of Appeals may retain legal counsel for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the Township Board.

### **14.2.4.5 PROVISIONS PERTAINING TO THE APPEALS PROCEDURE**

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The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this

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*Ordinance.* An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the State of Michigan or Bessemer Township. In addition, a variance in the Zoning Ordinance may be applied for and granted under section 4 of the *Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54, as amended*, and as provided under the *Michigan Zoning Enabling Act, 2006 PA 110*. The procedure for appealing to the Zoning Board of Appeals, or requesting a variance, ordinance interpretation, or filing any other request is as follows:

### A) GENERAL APPEALS PROCEDURES

- 1) The appeal shall be taken within such time as prescribed by this *Ordinance* or the Rules of Procedure of the Zoning Board of Appeals.
- 2) A fee, prescribed by the Township Board, shall be submitted to the Zoning Administrator at the time of the filing of the application form, before an appeal is processed.
- 3) The person, firm, agent, or attorney representing the appellant shall file an appeal by completing and signing the application form provided by the Zoning Administrator. The application shall state the grounds for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal.
- 4) All persons not licensed to practice law in the State of Michigan shall file a written statement signed by the principle stating the agent's right to act upon their behalf.
- 5) An application that does not fully comply with the submittal requirements shall be returned to the applicant.
- 6) Upon determining that an application is in compliance, the Zoning Administrator shall transmit the application and all papers constituting the record from which the appeal was taken to the Zoning Board of Appeals Secretary.
- 7) 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 (after the notice of appeal is filed) that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life and property, proceedings may be stayed only by a restraining order issued by the Board of Appeals or a circuit court.
- 8) A public hearing shall be held on each action that is brought before the ZBA. When a properly executed application form has been filed, the secretary of the Zoning Board of Appeals, upon consultation with the chair person for the Zoning Board of Appeals, shall schedule the matter for a public hearing and give notice as follows:
  - a. If the appeal is not regarding a specific parcel of property, notice of the hearing shall be published in a newspaper of general circulation in Bessemer Township not less than 15 days before the date of the hearing.
  - b. If the appeal regards a specific piece of property, notice shall be given to the owners of property that is the subject of the request, and also to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request, and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. (Notice shall go to one occupant per structure, or if it is a multi-unit structure, one occupant per unit, unless the structure

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- has over four dwellings units, then notice shall be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance).
- c. Notice shall include the nature of the request, identification of the property that is the subject of the request, listing of all street addresses within the property or other identification, place and time of the hearing, where and when written comments will be received.
  - d. When a variance request is made for any property located in a designated High Risk Erosion Area, designated Sand Dune, wetland documented by the DNRE, or within a one-hundred (100) year floodplain, the Michigan Department of Natural Resources and the Environment shall also receive notice.
- 9) Any interested party may appear and be heard at such hearing in person or by agent or attorney. The applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision. If an applicant fails to appear at the hearing, in person or through an agent or attorney, the Board of Appeals shall conduct the hearing and issue its decision based on the information available at the hearing.
  - 10) Upon the date for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to obtain additional information, or to cause service of such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing, provided the hearing is continued within thirty-six (36) hours, pursuant to Section 15.265(5) of the *Open Meetings Act, Public Act 276 of 1976*.
  - 11) Once all the necessary information has been received, the Board of Appeals shall return a decision on a case in a timely manner, or if time frames are included within its rules of procedure, then within the time specified in the rules of procedure. The Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The Board of Appeals shall grant no variance or make any determination on an appeal, *Ordinance* interpretation, or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this *Ordinance* have been met.
  - 12) No rehearing on an application denied by the Board of Appeals shall be conducted except upon the grounds of newly discovered evidence or a falsehood previously relied upon by the Board of Appeals, which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A rehearing shall be processed in the same manner as the original application and a new fee shall be paid. A request for rehearing shall be made within eight (8) days of the decision of the Board of Appeals.
  - 13) No decision of the Zoning Board of Appeals shall be presumed final until after eight (8) days following the meeting at which the decision was made. No Zoning Permit shall be issued by the Zoning Administrator based on a decision of the Board of Appeals before eight (8) days have expired.

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- 14) The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Gogebic County Circuit Court within thirty (30) days of the decision. The Circuit Court shall review the record and decision to ensure that the decision meets all of the following requirements:
  - a. Complies with the constitution and laws of the State.
  - b. Is based on proper procedure.
  - c. Is supported by competent, material, and substantial evidence on the record.
  - d. Represents the reasonable exercise of discretion granted by law to the Board of Appeals.
- 15) If the court finds the record inadequate to make the review required by this section, or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

### B) SPECIFIC APPEALS PROCEDURES

#### 1) **Procedures for Interpretations**

The Zoning Board of Appeals shall:

- a. Determine the precise location of the boundary lines between zoning districts when there is confusion or a dispute concerning the Zoning Map.
- b. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.
- c. Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this *Ordinance*, by applying the most comparable provisions for other similar uses.
- d. When making an interpretation, the Board of Appeals shall carefully consider the definitions in Article 15, the meaning of all the relevant sections in the *Ordinance*, past decisions of the Board of Appeals on similar matters, research and any conclusions by the Zoning Administrator, consultant, Township Attorney, or outside attorney hired by the Township, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this *Ordinance*.

#### 2) **Determination of a Lot of Record**

- a. Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this *Ordinance*, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be

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granted to such owner entitling him to have the parcel treated as a "lot of record" as defined in Article 15 of this *Ordinance*.

- b. The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this *Ordinance*. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of the Township, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his or her witnesses.
- c. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this *Ordinance*.

### 3) **Granting Variances**

If there are *practical difficulties* for **nonuse variances** or *unnecessary hardship* for **use variances** in the way of carrying out the strict letter of the *Ordinance*, as provided in the *Michigan Zoning Enabling Act, 2006 PA 110*, the Board of Appeals may grant a variance so that the spirit of the *Ordinance* is observed, public safety secured, and substantial justice done. The following rules shall be applied in the granting of a variance:

- a. In granting a variance, the Board of Appeals may impose specific conditions as are reasonably necessary for the furtherance of the intent and spirit of this *Ordinance*. The Board of Appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, ensure the protection of the public interest and abutting properties, provided there is an applicable standard in this *Ordinance* to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted. To ensure compliance with such conditions, the Board of Appeals may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of Section 14.3.3.1. The Board may also require as a condition of approval that its decision be recorded with the Gogebic County Register of Deeds.
- b. Each variance granted under the provisions of this *Ordinance* shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.
- c. The Board of Appeals shall have the authority to grant **nonuse variances** relating to the construction, structural changes, or alteration of buildings or structures related to the dimensional requirements of the *Ordinance* or to any other nonuse-related standard in the *Ordinance*, provided the applicant has proven a *practical difficulty* by demonstrating as follows:
  - 1. That strict compliance with the *Ordinance* would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;
  - 2. That the problem is due to a unique circumstance of the property;
  - 3. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to this *Ordinance*, instead of a variance;

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4. The property problem was not created by the action of the applicant;
  5. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;
  6. That granting of the variance will not increase the hazard from fire, flood, or similar dangers, or increase traffic congestion;
  7. That the requested variance will relate only to the property under the control of the applicant;
  8. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance;
  9. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;
  10. That the proposed use of the premises is in accord with this *Ordinance*;
  11. That the variance would do substantial justice to the applicant as well as to other property owners in the district;
  12. That the granting of the variance will ensure that the spirit, intent and purpose of the *Ordinance* is observed, public safety secured and substantial justice applied;
  13. That the requested variance shall not amend the permitted uses of the zoning district in which it is located.
- d. The proper procedure for an individual desiring a **use variance** is to file an application for amendment of the text of this *Ordinance* or the Zoning Map pursuant to Section 14.7.4. A use variance shall only be granted under exceptional circumstances where the current zoning district is clearly unreasonable as applied to a specific parcel. The Board of Appeals shall have the authority to grant use variances provided the applicant has proven an *unnecessary hardship* exists that can only be resolved by grant of a use variance and that:
1. The property in question cannot be put to a reasonable use if permitted to be used only for uses allowed in the district in which it is located;
  2. The plight of the owner is due to unique circumstances peculiar to the property and not to general neighborhood conditions;
  3. The use variance, if granted, would not alter the essential character of the area;
  4. The problem is not created by the appellant.
  5. Two-thirds vote of the members of the Zoning Board of Appeals is necessary to approve a use variance based on *unnecessary hardship*.
- 4) **Site Plan Review, Special Land Use, and PUD Appeals**
- a. Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision.

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- b. The Zoning Board of Appeals shall review the decision of the Zoning Administrator or Planning Commission to ensure that it is consistent with the standards contained in this *Ordinance* and rules established by agencies responsible for site plan review.
- c. The Zoning Board of Appeals shall give written justification for their decision.
- d. The Zoning Board of Appeals may not grant a variance to any element of a site plan unless an application for a variance has been filed; any such variance request shall be reviewed relative to the requirements of this Article and the variance standards.
- e. An applicant for a Special Land Use or Planned Unit Development may not appeal a decision to approve, approve with conditions, or deny the decision thereon to the Board of Appeals. Such an appeal may only be taken to Circuit Court. The determination on the number of permitted lots, dwelling units, or building sites in a PUD pursuant to Article 10 may be appealed to the Zoning Board of Appeals pursuant to the procedures in this Article.

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### **14.2.5 SECRETARY**

There shall be a Secretary on the Planning Commission and Zoning Board of Appeals for the purposes of preparing a public record of minutes, resolutions, transactions, findings and determinations. The Secretary may perform other duties related to the conduct of the Planning Commission or Board of Appeals business as may be required from time to time by the officers of the Planning Commission or Board of Appeals, provided the Secretary of the respective Commission and Board is solely responsible for the accuracy of such duties, and all documents prepared by the recording secretary shall be signed by the official secretary of the Planning Commission or official secretary of the Board of Appeals. The Secretary shall be a member of the Planning Commission or Zoning Board of Appeals unless the Township Board authorizes funds to hire a recording secretary, if the task is not delegated to a Township employee. The Township Clerk shall maintain one official copy of a current Zoning Ordinance and Zoning District Map.

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## **SECTION 14.3 GENERAL PERMIT APPLICATION, REVIEW, & APPROVAL PROCEDURES**

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### **14.3.1 TYPES OF PERMITS**

No clearing, grading, excavation, or filling of land for a building or structure shall be commenced; no erection, addition to, alteration of, or moving of any building or structure shall be undertaken, nor shall any land be changed to a different use under this *Ordinance*, nor to any different use group under the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, except in accordance with and pursuant to one of the following permits or approvals.



## *Bessemer Township Zoning Ordinance*

### **14.3.1.1 CERTIFICATE OF ZONING COMPLIANCE**

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A Certificate of Zoning Compliance is a document signed by the Zoning Administrator acknowledging that, after having completed the appropriate review and approval process, and been approved for all other applicable permits, a use, structure, building, or lot either complies with or is legally nonconforming to the provisions of this *Ordinance*, or is an authorized variance or modification. A Certificate of Zoning Compliance shall be issued before either a Building Permit or Occupancy Permit shall be issued. The Zoning Administrator shall perform inspections prior to issuance of a Certificate of Zoning Compliance, and at such other times as is necessary to ensure conformance with this *Ordinance* and the conditions of any permit or approval until an Occupancy Permit is issued. A Temporary Certificate of Zoning Compliance may be issued for temporary buildings, structures, and uses that conform with requirements.

### **14.3.1.2 CONDITIONAL LAND USE PERMIT**

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A Conditional Land Use Permit is the documented evidence of authority that a proposed Conditional Land Use has gone through the proper Tier 2 application (Section 14.3.2.2.C) and review (Section 14.3.4.5) procedures and can be commenced subject to compliance with all the terms and conditions contained in the permit in conformance with Section 14.5.6 and Article 9 of the *Ordinance* after having subsequently been issued a Certificate of Zoning Compliance and a Building Permit.

### **14.3.1.3 SPECIAL LAND USE PERMIT**

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A Special Land Use Permit is the documented evidence of authority that a proposed Special Land Use has gone through the proper Tier 3 application (Section 14.3.2.2.D) and review (Section 14.3.4.6) procedures and can be commenced subject to compliance with all the terms and conditions contained in the permit in conformance with Section 14.5.6 and Article 9 of the *Ordinance* after having subsequently been issued a Certificate of Zoning Compliance and a Building Permit.

### **14.3.1.4 PUD APPROVAL**

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A PUD approval is the documented evidence of authority that a proposed Planned Unit Development has undergone the proper review per Article 10 and Tier 3 review procedures and can be commenced subject to compliance with all the terms and conditions contained in the approval in conformance with the appropriate sections of the *Ordinance* after having subsequently been issued a Certificate of Zoning Compliance and a Building Permit.

### **14.3.1.5 BUILDING PERMIT**

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No building permit shall be issued without first having obtained a Certificate of Zoning Compliance and all other applicable permits. All building permits shall indicate by the signature of the Zoning Administrator that required zoning compliance has been verified. If such verification is not present, the building permit shall not be valid and no construction activity may commence.

## *Bessemer Township Zoning Ordinance*

### **14.3.1.6 CERTIFICATE OF OCCUPANCY**

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The Certificate of Occupancy is a document allowing the occupancy or use of a building or structure after certification that the building/structure has been constructed and will be used in compliance with all applicable municipal codes and ordinances. All Certificates of Occupancy shall indicate by the signature of the Zoning Administrator that required zoning compliance has been verified. If such verification is not present, the Certificate of Occupancy shall not be valid and no occupancy may commence.

### **14.3.2 APPLICATION REQUIREMENTS**

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The general provisions of this section shall apply to all applications for development approval and procedures under this *Ordinance*, unless otherwise stated. The application requirements specific to Planned Unit Developments are found in Article 10. Petition requirements related to zoning text amendments, rezoning, zoning map changes, and conditional rezoning are found in Section 14.7.

#### **14.3.2.1 AUTHORITY TO FILE APPLICATIONS**

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Applications shall be submitted to the Zoning Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

A) **APPLICANT IS NOT OWNER**

If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted.

B) **APPLICANT IS NOT SOLE OWNER**

If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted.

#### **14.3.2.2 APPLICATION CONTENTS**

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Applications required under the *Ordinance* shall be submitted on forms approved by the Planning Commission. The application shall also include all other supporting documents as required under this *Ordinance*, such as site plans. Waivers of information requirements may be granted upon a written finding that the information is not necessary to achieve the purpose and intent of the site plan review requirements specifically and the *Ordinance* standards generally, and that public health, safety, and general welfare will not be compromised by a waiver.

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All waivers shall be recorded in a log maintained by the Zoning Administrator listing the applicant, application number, and the information waived.

### A) SUBMISSION REQUIREMENTS FOR A PRE-APPLICATION CONFERENCE (PRELIMINARY SKETCHES)

Preliminary sketches of proposed site plans may be submitted for review in a pre-application conference with the Zoning Administrator or the Planning Commission prior to submission of Tier 1, Tier 2, or Tier 3 applications for final approval. Submission of preliminary sketch plans shall be made no later than six (6) days prior to the meeting at which the pre-application conference is scheduled to take place. The Zoning Administrator shall determine the number of plans to be submitted. Sketch plans should include, at minimum, the requirements as identified in Table 14-1, Required Elements for Site Plan Completeness.

### B) SUBMISSION REQUIREMENTS FOR TIER 1 REVIEW (APPLICATIONS NOT REQUIRING SITE PLAN REVIEW)

All applications for a Certificate of Zoning Compliance shall require the following minimum submissions, unless waived by the Zoning Administrator:

- 1) A fully completed Zoning Permit application on a form supplied by the Zoning Administrator.
- 2) A basic site plan, satisfying the requirements of Tier 1 review as shown in Table 14-1, *Required Elements for Site Plan Completeness*, and any other information deemed necessary by the Zoning Administrator to properly administer the *Ordinance* (unless a waiver is granted by the Zoning Administrator for the number of copies or required information). The Zoning Administrator will determine the number of required copies of the basic site plan.
- 3) A list of any permits that will be required for the development or use from federal, state, county, or local agencies.
- 4) A copy of the deed or proof of equitable title for any new principal or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of the *Ordinance*, to protect easements from encroachment, and to assure conformance with the *Land Division Act, Public Act 288 of 1967, as amended*. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

### C) SUBMISSION REQUIREMENTS FOR TIER 2 REVIEW (CONDITIONAL LAND USE PERMITS)

All applications for a Conditional Land Use Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

- 1) A fully completed Conditional Land Use Permit application on a form supplied by the Zoning Administrator.
- 2) Twelve (12) copies of a minor site plan, satisfying the requirements of Tier 2 review as shown in Table 14-1, *Required Elements for Site Plan Completeness*, and any other information deemed necessary by the Zoning Administrator to properly

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administer this *Ordinance* (unless a waiver is granted by the Zoning Administrator for the number of copies or required information).

- 3) A list of any permits that will be required for the development or use from federal, state, county, or local agencies.
- 4) A copy of the deed or proof of equitable title for any new principal or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this *Ordinance*, to protect easements from encroachment, and to assure conformance with the *Land Division Act, Public Act 288 of 1967, as amended*. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.
- 5) A statement of compliance with the standards required for approval in Article 14 and other standards in Article 9 affecting the conditional land use under consideration.

### D) SUBMISSION REQUIREMENTS FOR TIER 3 REVIEW (SPECIAL LAND USE PERMITS)

All applications for a Special Land Use Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

- 1) A fully completed Special Land Use Permit application on a form supplied by the Zoning Administrator.
- 2) Twelve (12) copies of a Major Site Plan, satisfying the requirements of Tier 3 review as shown in Table 14-1, *Required Elements for Site Plan Completeness*, and any other information deemed necessary by the Zoning Administrator to properly administer this *Ordinance* (unless a waiver is granted by the Zoning Administrator for the number of copies or required information).
- 3) A list of any permits that will be required for the development or use from federal, state, county, or local agencies.
- 4) A copy of the deed or proof of equitable title for any new principal or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this *Ordinance*, to protect easements from encroachment, and to assure conformance with the *Land Division Act, Public Act 288 of 1967, as amended*. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.
- 5) A statement of compliance with the standards required for approval in Article 14 and other standards in Article 9 affecting the Special Land Use under consideration.
- 6) If required, an Impact Assessment including the information as detailed in Article 14.

### E) SUBMISSION REQUIREMENTS FOR IMPACT ASSESSMENTS

With each application for a major site plan, and for all PUD, subdivision plat, and condominium projects, a written impact assessment shall be submitted with the following information:

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- 1) Name(s) and address(es) of person(s) responsible for preparation of the impact statement.
- 2) General description of existing and proposed deed restrictions, if any.
- 3) A written description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.
- 4) Existing and proposed future uses and other man-made facilities.
- 5) The number of residents, workers, visitors, or patrons and vehicular and pedestrian traffic.
- 6) Phasing of the project including ultimate development proposals.
- 7) Natural features which will be retained, removed, and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife, and water. The description of the areas to be changed shall include their effect on the site and on adjacent properties. An aerial photo may be used to delineate the areas of change.
- 8) The method to be used to serve the development with water and sanitary sewer facilities.
- 9) The method to be used to control drainage on the site and from the site.
- 10) If public sewers are not available to the site, the applicant shall submit a current approval from the District Health Department or the Department of Environmental Quality indicating approval of plans for sewage treatment.
- 11) The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.
- 12) Description of measures to control soil erosion, sedimentation and stormwater runoff during grading and construction operations and until a permanent ground cover is established.
- 13) Type, direction and intensity of outside lighting.
- 14) An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.
- 15) The "environmental provisions" of Section 5.10 shall be addressed when applicable.

### F) SUBMISSION REQUIREMENTS FOR TEMPORARY CERTIFICATES OF ZONING COMPLIANCE

All applications for a Temporary Certificate of Zoning Compliance shall require the following minimum submissions, unless waived by the Zoning Administrator:

- 1) A fully completed Temporary Zoning Permit application on a form supplied by the Zoning Administrator, including at minimum the applicant's name and the location and effective dates of all permitted temporary buildings, structures, or uses.
- 2) Any other information deemed necessary by the Zoning Administrator to properly administer this *Ordinance*, such as:
  - a) Use and placement of signs
  - b) Provision for security and safety measures
  - c) Control of nuisance factors

## *Bessemer Township Zoning Ordinance*

- d) Elements of a performance guarantee

### **14.3.2.3 SIMULTANEOUS PROCESSING OF APPLICATIONS**

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Whenever two or more forms of review and approval are required under this *Ordinance* (e.g., a Special Land Use Permit and a Variance), the applications for those development approvals may, at the option of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.

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**Table 14-1,  
page 1 of 4**

Required Elements for Site Plan Completeness	Required Elements (X) and those that may be waived (in comments) by Zoning Administrator			
	Prelim. Sketch	Tier 1	Tier 2: Minor Site Plans	Tier 3: Major Site Plans
<b>Project Identification</b>				
<b>Project Identification:</b> Applicant/property owner name, address, phone number; development name; property address; date of preparation and any revisions; directional arrow; project location map.	X	X	X	X
<b>Detailed Project Identification:</b> Preparer's name and address, and professional seal of architect, engineer, surveyor, or landscape architect indicating Michigan license (if applicable); complete, current legal description of the property; existing or proposed deed restrictions or previous zoning approval limiting the property; and, in the case of a condominium development, the proposed master deed; proposed variances (if applicable).			X	X
A <b>plan scale drawing</b> (engineer scale) at no smaller than 1" = 50' (1" = 20' for land under 20 acres) with the scale proportional to the size of the project showing maximum detail on one or more sheets of paper measuring not more than 24 inches by 36 inches. Plan for commercial interior remodeling shall be drawn to a scale of not less than 1:480 (1 inch to 40 feet) and shall be certified by a professional engineer or architect. Include scale, descriptive legend; north arrow.		X Can change scale	X Can change scale	X
A <b>surrounding area scale drawing</b> (engineer scale) at no smaller than 1" = 100' with the scale proportional to the size of the project showing maximum detail on one or more sheets of paper measuring not more than 24 inches by 36 inches. Include scale, descriptive legend; north arrow.			X Can change scale	X
<b>Existing Features</b>				
<b>Existing Property Features:</b> Property lines and dimensions including angles drawn to scale of subject property and all properties within 100 feet; total site acreage; zoning and current land use of applicant's property, all abutting properties, and properties located across any public or private street; location and size of existing principal and accessory structures (larger than 100 square feet) on the property and within 100 feet of the site's property lines, including closest distance to lot lines; existing roads or easements on or adjacent to site.	X	X	X	X
<b>Existing Natural Features:</b> Location of significant and sensitive on-site natural features such as water features, wetlands, bluffs, beaches, and rock outcrops.	X	X	X	X

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**Table 14-1,  
page 2 of 4**

Required Elements for Site Plan Completeness	Required Elements (X) and those that may be waived (in comments) by Zoning Administrator			
	Prelim. Sketch	Tier 1	Tier 2: Minor Site Plans	Tier 3: Major Site Plans
<b>Existing Features</b>				
<b>Existing Natural Features in Detail:</b> Topography at a minimum of 2 foot contour intervals; water bodies and water courses on the property and within five-hundred feet; all areas within the 100-year floodplain; regulated wetlands, sand dunes, or high-risk erosion areas on to the site; surface drainage; location of individual trees with a caliper of 12 inches or greater and stands of trees with an indication as to which shall be retained or removed or altered.			X	X
<b>Existing Public Features:</b> Location and dimensions of all roads and driveways within 200 feet of the parcel; location of access points on both sides of the street within 100 feet of the proposed site access.	X	X	X	X
<b>Proposed Features</b>				
<b>Proposed Construction:</b> Building footprints and setbacks for all proposed structures, including relationship to each other if multiple buildings; location of parking spaces; location of exterior lighting; general site circulation and access including indication of street right-of-way, pavement widths, access points (including distance from driveways and intersecting streets), and location and material of private pedestrian paths; location of all proposed outdoor storage, including snow storage, and the manner in which it is to be screened and accessed; fence or wall location and height.	X	X	X	X
<b>Proposed Construction in Detail:</b> Building dimensions, proposed changes to the existing ground contours; elevations showing exterior architectural design features and height for all proposed structures; floor area or acreage allotted to each use; eave size; dimensions of parking and other paved surfaces such as driveways and sidewalks; lot coverage; size, area, height, location, illumination, and detail of all signs, including handicapped signs; location and design of exterior lighting.		As required	X Finished floor elevation may be waived	X
<b>Proposed Construction as Required by District/Standards:</b> Dimensions and number of proposed lots or condominium units; separation distance (as required between buildings and between uses); floor area; transparency; number of dwelling units; number of occupants or employees.		As required	As required	As required



Table 14-1,  
page 3 of 4

Required Elements for Site Plan Completeness	Required Elements (X) and those that may be waived (in comments) by Zoning Administrator			
	Prelim. Sketch	Tier 1	Tier 2: Minor Site Plans	Tier 3: Major Site Plans
<b>Proposed Features</b>				
<b>Proposed Natural and Open Features:</b> Dimensions of side and rear yards and open space; general landscape concept.	X	X	X	X
<b>Proposed Natural and Open Features in Detail:</b> Proposed topography (max. 2 foot contour intervals) with a site grading plan; landscaping plan indicating existing vegetation to be retained, location of proposed plants, common plant name, size at installation, number of plants; elevations, dimensions, and area of buffer strips and berms; location and dimensions of proposed common open spaces, greenbelts, and recreational facilities, including pedestrian and bicycle facilities if applicable.			X 2 foot contour intervals may be waived	X
<b>Proposed Natural and Open Features as Required by District:</b> Landscape opacity, plant detail.			As required	As required
<b>Public features in relation to proposed development:</b> Locations, width, and name of abutting streets and proposed streets (including curve radii), drives, curb cuts, accel/decel/pass lanes, sidewalks, bike paths, trails, and easements; location, dimensions, and design (including surface materials) of service and off-street parking areas, including maneuvering lanes, service lanes, and off-street loading spaces. Include number of required and provided parking and handicapped spaces and location of handicapped parking ramps.	X	X	X	X
<b>Proposed Service Infrastructure:</b> Location of water supply; fire hydrants; location and design of wastewater systems and solid waste disposal facilities (including trash receptacles and dumpsters with method of screening). Site retention and detention facilities showing site drainage pattern at a minimum of two (2) foot intervals, with benchmark location and location of site retained water with calculations. Location and size of utility lines; location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.		X 2 foot interval site drainage pattern may be waived.	X 2 foot interval site drainage pattern may be waived.	X

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**Table 14-1,  
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<b>Required Elements for Site Plan Completeness</b>	<b>Required Elements (X) and those that may be waived (in comments) by Zoning Administrator</b>			
	<b>Prelim. Sketch</b>	<b>Tier 1</b>	<b>Tier 2: Minor Site Plans</b>	<b>Tier 3: Major Site Plans</b>
<b><i>Proposed Features</i></b>				
<b>Proposed Infrastructure in Detail:</b> Stormwater drainage plan addressing a 100-year storm design base including flows onto the site, on-site impacts, flow control, and proposed facilities (small lots in built-up areas may be permitted controlled exception to the 100-year storm base). Written documentation prepared by a registered civil engineer indicating peak rate of stormwater runoff occurring before development (for a storm with a 25-year frequency and 24-hour duration).				X
<b><i>Miscellaneous Materials</i></b>				
<b>Environmental:</b> A completed Environmental Permits Checklist.		X	X	X
<b>Impact Assessment:</b> For projects requiring an Impact Assessment pursuant to <b>Section 14.3.2.2.E</b> , a completed Impact Assessment Work Sheet.			As required	As required
<b>Historic:</b> Identification of any historic structures or likely archeological locations and procedures for handling historic features or artifacts.		X	X	X
Any other information required by the Zoning Administrator to establish compliance with this <i>Ordinance</i> .	<b>May be waived.</b>			

## *Bessemer Township Zoning Ordinance*

### **14.3.2.4 FEES**

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#### A) DETERMINATION OF FEES

The Township may charge reasonable fees sufficient to cover the costs of administration of this *Ordinance*. The Township Board may from time to time adopt by resolution a fee schedule to accompany all applications submitted under this *Ordinance*. Fees shall be based on actual direct costs of inspection and supervision or consultation with qualified professionals (where reasonably necessary), resulting from the enforcement of this *Ordinance*, including the enforcement of conditions of a permit or approval, and may include the cost of filing approvals with other entities, such as with the Zoning Administrator. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including publishing the newspaper notice and any map, sending required notices to property owners and renters, photocopying, staff time, Planning Commission, Township Board and/or Zoning Board of Appeals meeting time, mileage and any costs associated with reviews by qualified professional planners, engineers, scientists, and/or other professionals. The fee schedule and any amendments shall be available at the Township Clerk's office following adoption by the Township Board.

#### B) FEES TO BE PAID

No application shall be processed until the established fee has been paid; except that the Township Board in the resolution establishing zoning fees, may exempt Township projects or the projects of other governmental agencies from all or part of the fees. The Office of Zoning Administrator shall keep accurate records of all fees and payments. Such records are public records open for public inspection.

#### C) ADDITIONAL COSTS AND FEES FOR PROFESSIONAL REVIEWS

1) If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of application review or appeal, or that the participation of a qualified professional engineer, planner, attorney or other qualified professional is necessary, then the applicant shall deposit with the Township Treasurer additional fees as determined by the Zoning Administrator to equal the estimated amount of additional costs. The additional fees shall be held in escrow in the applicant's name and shall be used solely to pay for additional costs. Failure of the applicant to make any escrow deposit required under this *Ordinance* shall render the application incomplete or the appeal procedurally deficient, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following the final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal. Failure of the

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applicant to make timely payment of any balance due will entitle the Township to place a lien on the subject property for the unpaid balance.

- 2) Professional review shall include a report indicating the extent of conformance or nonconformance with this *Ordinance* and identifying any problems which may create a threat to public health, safety, or the general welfare or to the quality of the air, water, or natural resources of the Township. Mitigation measures, alterations, or alternatives to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review and a copy of the statement of expenses for the professional services rendered.

### D) REFUND OF FEES

Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment shall be refunded to the applicant.

## **14.3.2.5 AFFIDAVIT OF COMPLIANCE**

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### A) APPLICABILITY

Each application for a Certificate of Zoning Compliance or a conditional rezoning shall contain a signed and notarized affidavit stating that the applicant understands, and agrees to comply with the following laws when applicable to the lot, tract, or parcel in question. The applicant shall further affirm that said lot, tract, or parcel is not currently, and that the proposed use or construction shall not be, in violation of the following laws. The Affidavit of Compliance shall be deemed part of and a condition to the permit or approval.

### B) APPLICABLE LAWS

- 1) *The Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101 et seq., or the Condominium Act, Public Act 591 of 1978 as amended, being MCL 559.101 et seq.*
- 2) *The District Health Department Sanitary Code.*
- 3) *The Flood Plain regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, as amended.*
- 4) *Michigan Public Health Code, Public Act 368 of 1978, as amended, being MCL 333.12751, et seq.*
- 5) *Farmland and Open Space Preservation provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 361, as amended, being MCL 399.201, et seq.*
- 6) *Wetlands Protection provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 303, Section 324.30301 et. seq., as amended.*

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- 7) Inland Lakes and Streams provisions of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 301, Section 324.30141, et.seq., as amended.*
- 8) *"Miss Dig Law", Act 53, as amended.*
- 9) *Airport Zoning Act, Public Act 23 of 1950, as amended, being MCL 259.431, et seq.*
- 10) *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq., and all of its associated codes related to building, plumbing, electrical, etc.*
- 11) Michigan Department of Environmental Quality rules for Land Divisions, as amended.
- 12) The High Risk Erosion provisions of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended, being MCL 324.32305, et seq.*
- 13) Any Michigan Department of Transportation driveway or access management regulations under *Public Act 200 of 1969, as amended, being MCL 247.321.*
- 14) All other State, Federal or local laws, rules, or regulations known to be applicable to the proposed building, structure or use of the property.

### **14.3.2.6 DETERMINATION OF SUFFICIENCY**

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#### **A) COMPLETE APPLICATION**

All applications for a Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, PUD approval, subdivision plat, variance, appeal, text amendment, rezoning, or conditional rezoning or other authorization requested under this *Ordinance* must be complete before the permit issuing authority or approving body or official is required to consider the application.

#### **B) SUFFICIENCY REVIEW**

Within fourteen (14) calendar days following receipt of the application, the Zoning Administrator shall determine if the application is complete, meets all relevant threshold requirements, and includes data in sufficient detail to evaluate the application to determine whether it complies with the requirements of this *Ordinance*. An application not reviewed for sufficiency within fourteen (14) calendar days, shall be considered complete and shall be processed as such. When the application is determined sufficient, it shall be reviewed pursuant to the appropriate procedures and standards of this *Ordinance*. If the Zoning Administrator determines the application is not sufficient, written notice shall be provided to the applicant specifying the application's deficiencies. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn.

### **14.3.3 PERMIT DETAILS**

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## Bessemer Township Zoning Ordinance

### 14.3.3.1 PERFORMANCE GUARANTEES FOR COMPLIANCE

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#### A) PURPOSES

In authorizing any Certificate of Zoning Compliance, Temporary Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, Planned Unit Development approval, platted subdivision, site plan approval, conditional rezoning, or variance, the approval body or official, as designated by this *Ordinance*, may require that a performance guarantee be furnished for the following purposes:

- 1) To ensure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance;
- 2) To provide sufficient resources for the Township to complete required improvements or conditions in the event the permit holder does not; or
- 3) To ensure the discontinuance of a temporary use by a stipulated time.

#### B) IMPROVEMENTS COVERED

Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project that are deemed necessary to protect the health, safety and welfare of the Township resources and future users or inhabitants of the proposed project. The term "improvements" does not include improvements for which a performance guarantee has been deposited pursuant to the *Land Division Act, Public Act 288 of 1967, as amended*. The performance guarantee shall meet the following requirements:

- 1) **Form:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Township Treasurer, which names the property owner as the obligor and the Township as the obligee.
- 2) **Time when Required:** The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in an interest bearing account in a financial institution with which the Township regularly conducts business.
- 3) **Amount and Type:** The amount and type of the performance guarantee shall be determined by the body or official making the decision to approve the request, or if they have not done so, by the Zoning Administrator. The amount of the performance guarantee should be sufficient to cover the estimated cost of the improvements or conditions. The performance guarantee

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shall be reasonable, appropriate, and commensurate with the scope of the project. Additional guidelines for establishing the amount of a performance guarantee may be prescribed by resolution of the Township Board.

### C) RETURN OF PERFORMANCE GUARANTEE

- 1) The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination (after an inspection) that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in proportion to the work completed on the applicable improvement or condition, and may be written as an element of the conditions surrounding the approval of the project.
- 2) After the inspection, the Zoning Administrator shall transmit a recommendation to the Planning Commission indicating approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.
- 3) The Planning Commission shall approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
- 4) Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee. Any unused balance remaining would be returned to the applicant; any excess expense would be recorded as a lien on the property.

### D) RECORD OF PERFORMANCE GUARANTEE

A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

#### **14.3.3.2 GENERAL PERMIT DETAILS**

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### A) EXPIRATION

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Certificates of Zoning Compliance, Conditional Land Use Permits, Special Land Use Permits, and Planned Unit Development approvals shall expire automatically, if, within one (1) year after the issuance of such permits, significant actual construction has not commenced (or the use has not commenced where no actual construction is required). Significant means more than one-third of the estimated expense of the development. Multi-phase PUDs shall conform with the requirements of Article 10.

### B) EXTENSIONS

The permit-issuing authority may extend a permit for a period of up to six (6) months from the date when a permit would otherwise expire if it concludes that:

- 1) The permit recipient has proceeded with due diligence and in good faith, and
- 2) Conditions have not changed so substantially as to warrant a new application. One successive extension may be granted for a period of up to six (6) months upon the same findings. All extensions may be granted without resort to the formal application and review processes. Fees required for an extension shall be according to the Township fee schedule.

### C) WITHHOLDING PERMITS

The Zoning Administrator may withhold any Certificate of Zoning Compliance, Temporary Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, or PUD approval pending verification that an applicant has received required local, county, state, or federal permits, including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, flood plain, culvert, or driveway permits. Final permit approval of the requested development activity will be conditioned upon the receipt of any other necessary government approvals, and the Township approval body can direct the Zoning Administrator not to issue the permit until those other permits have been obtained and copies filed with the Zoning Administrator.

### D) NOTIFICATION FOR INSPECTION PRIOR TO OCCUPANCY

The Zoning Administrator shall perform inspections prior to issuance of a Certificate of Zoning Compliance and at such other time as is necessary to ensure conformance with this *Ordinance* and the conditions of any permit or approval. The holder of every permit involving Tier 2 or Tier 3 review shall notify the Zoning Administrator within 24 hours after completion of the work authorized by such permit for a final inspection and verification of the Certificate of Zoning Compliance.

### E) UNRESOLVED VIOLATION



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The Zoning Administrator may refuse to issue a Certificate of Zoning Compliance to a person who is responsible for an unresolved violation of this *Ordinance* at the requested location, or another location within the jurisdiction of this *Ordinance*, until such time as the violation is satisfactorily corrected where such other unresolved violation poses reasonably similar risks.

### F) PREVIOUS APPROVALS

Nothing in this *Ordinance* shall require changes in the plans, construction, or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which shall have been actively pursued within ninety (90) days after the effective date of this *Ordinance*; and the entire building shall be completed as authorized within two (2) years after the date of approval of the application, and provided that the construction was lawfully completed in accordance with the *Ordinance*, permit, and permit conditions.

### G) APPLICABILITY OF ZONING APPROVAL

The approval to engage in any land use activity or to construct a building or structure that has received a Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, PUD approval, or other permit issued under the authority of this *Ordinance*, or any variance granted by the ZBA, runs with the land, and not with the owner, just like a nonconforming use right. Thus, any person who builds or uses land based on a valid permit or approval granted under the terms of this *Ordinance*, and later dies, should rest assured that the rights, limitations and conditions granted in that permit automatically transfer to the new owner(s) of the land, provided there were no violations applicable to the land that were unresolved by the previous owner prior to his/her death. By the same token, any person may sell property to another person, who will enjoy the same rights, privileges and restrictions as the seller, provided that the seller, prior to the sale, used the property in conformance with a lawful permit and the land use was not in violation of this *Ordinance* prior to the sale.

## **14.3.3.3      CONDITIONAL AND SPECIAL LAND USE PERMIT DETAILS**

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### A) PERMIT REVOCATION

In the event the Planning Commission believes the holder of a Conditional or Special Land Use Permit has failed to comply with one or more of the terms or conditions of the permit or of this *Ordinance*, the Planning Commission may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen (15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder, interested parties, and the Zoning Administrator shall be allowed to appear at the hearing

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and to present evidence pertinent to whether the permit should be revoked. If the Planning Commission decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this *Ordinance*. On the 60th day after the hearing, the Zoning Administrator may inspect the property and notice the permit holder that the use is a per se nuisance and a violation of this *Ordinance*.

### B) PERMIT TRANSFERABILITY

A Conditional or Special Land Use Permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property provided that the permit holder is in compliance with the terms of the permit. A Conditional or Special Land Use Permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes for which the Conditional or Special Land Use Permit was granted as long as all conditions and terms of the permit are satisfied. Permit transfer is automatic, provided that within sixty (60) days of acquiring ownership the new owner registers his intent to continue the Conditional or Special Land Use with the Zoning Administrator on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable *Ordinance* requirements that apply to the property and any special conditions imposed upon the Conditional or Special Land Use when the transfer form is submitted.

### C) TERMINATION WITH CHANGE OF USE

If there is a change in the use of a property for which a Conditional or Special Land Use Permit was issued, the Conditional or Special Land Use shall automatically terminate and the property shall only be used for a use permitted in the District in which the property is located. A Conditional or Special Land Use Permit for a seasonal use is also subject to termination if the season passes in which the Conditional or Special Land Use would normally occur and a different use is in place instead.

### D) REAPPLICATION

No application for a Special Land Use Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence or a falsehood previously relied upon by the Township, which, through the exercise of normal diligence, could not have been discovered before the hearing as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

### E) RECORDING CONDITIONS WITH REGISTER OF DEEDS

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At the direction of the body or official making the final decision to approve a discretionary permit authorized by this *Ordinance*, or as otherwise may be specified by this *Ordinance*, or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the Gogebic County Register of Deeds. The following requirements shall be met with each recording:

- 1) The applicant shall record an affidavit which has received the approval of the Township Attorney containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Township. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County, and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.
- 2) A copy of any agreement between joint users of parking areas shall be filed with the application for a Certificate of Zoning Compliance and recorded with the Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility by each party and clearly spell out maintenance responsibilities. A copy of all recorded documents shall be presented to the Zoning Administrator.
- 3) All documents to be recorded with the County Register of Deeds at the initiative of the Township, shall be first reviewed and approved as to form and content by the Township Attorney or other legal representative of the Township retained for that purpose.

### F) AS-BUILT DRAWINGS

“As built” plans or construction drawings that demonstrate compliance with this *Ordinance* shall be filed with the Zoning Administrator immediately after construction is completed for any permit or approval requiring a Tier 3 Review.

#### **14.3.3.4 TEMPORARY CERTIFICATES OF ZONING COMPLIANCE PERMIT DETAILS**

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### A) RENEWING

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Temporary Certificates of Zoning Compliance which are renewable may be renewed in the same manner as issuance of the original permit, except the application for renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit, and applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit. Fees may be assessed in accordance with the Township Fee Schedule.

### B) PERFORMANCE GUARANTEE

The Zoning Administrator may require a performance guarantee in the form of cash, check or savings certificate or irrevocable bank letter of credit be deposited with the Township Treasurer in an amount equal to the estimated cost of removing any temporary structure for which a Temporary Certificate of Zoning Compliance is authorized under this Section for use in the event it is not removed by an applicant at the end of an authorized period. Prior to the issuance of a temporary permit, the applicant shall sign an affidavit holding the Township harmless against any claim for damages if the Township were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned to the applicant when all the terms and conditions of the Temporary Certificate of Zoning Compliance have been met and the temporary use or structure has been removed by the applicant.

### C) PERMIT REVOCATION

A Temporary Certificate of Zoning Compliance may be revoked at any time for any of the following reasons:

- 1) Nonconformance with the requirements of this Section and/or a permit issued thereunder;
- 2) Evidence that the Temporary Certificate of Zoning Compliance was obtained by misrepresentation or fraud;
- 3) That one (1) or more of the conditions of the Temporary Certificate of Zoning Compliance have not been met; and
- 4) That the temporary use is in violation of any statute, ordinance, law, or regulation.
- 5) The Temporary Certificate of Zoning Compliance has expired by its terms or the provisions of the *Ordinance*.

### D) CESSATION UPON REVOCATION

Upon expiration or revocation of a Temporary Certificate of Zoning Compliance for a temporary use, building or structure, the temporary use shall cease and all temporary structures, dwellings, or buildings shall be removed from the parcel of land. Any use or structure established under a Temporary Certificate of Zoning Compliance shall not give rise to any vested rights of use or property except for a limited lawful use during the term of and in accordance with the Temporary Certificate of Zoning Compliance.

### E) APPEAL

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An appeal of a decision by the Zoning Administrator relative to approval or denial of a Temporary Certificate of Zoning Compliance for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to the conditions outlined in this *Ordinance*.

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### **14.3.4 PERMIT REVIEW AND APPROVAL PROCESS**

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The bodies and officials responsible for review of permit applications under this *Ordinance* shall approve all applications that conform as submitted with the requirements of this *Ordinance*; shall approve with conditions all applications that would conform if certain conditions, authorized by the *Ordinance*, were met; and shall deny all applications that do not conform with the *Ordinance* and would not likely conform even if mitigating conditions were imposed as a condition of approval.

#### **14.3.4.1 INTENT**

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The intent of the procedures and standards for permit review and approval is to ensure that developments are compatible with adjacent uses, do not negatively impact surrounding properties, and provide for the orderly development of Bessemer Township. Specifically, development decisions are intended to ensure the use of land in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of the population, transportation systems, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements; and to promote public health, safety, and welfare.

#### **14.3.4.2 BASIS OF DETERMINATION**

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During the review and approval process, the following shall serve as a general basis of determination in addition to all other applicable standards contained in this *Ordinance*:

- A) Intent of the zoning district;
- B) Characteristics and intensity of proposed and adjacent uses, including assembly of people associated with the use;
- C) Physical characteristics of existing or proposed structures;
- D) Suitability of the proposed landscape buffers for the intended purpose;
- E) Vehicular and pedestrian traffic volumes and patterns, particularly in relation to public safety;
- F) The physical characteristics of the site;
- G) Demands upon public services and facilities;
- H) The type and amount of litter, waste, noise, dust, traffic, fumes, glare, and vibration which may be generated by such use;
- I) Area requirements for the proposed use, and the potential for the area requirements to expand;

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- J) Other factors necessary to maintain property values in the neighborhood and guarantee safety, light, air, and privacy to the principal uses in the district;
- K) Compliance with the current *Bessemer Township Master Plan*.

### **14.3.4.3 PRE-APPLICATION CONFERENCE**

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Except for PUDs (Article 10) a pre-application conference is optional prior to submission of any application for development approval under this *Ordinance*.

#### A) PURPOSE

The purpose of a pre-application conference is to inform the applicant about the application requirements, the applicable provisions of this *Ordinance* that relate to the proposed development, and the application review procedures.

#### B) INITIATION OF PRE-APPLICATION CONFERENCE

Any potential applicant may request a pre-application conference with the Zoning Administrator. Along with the request for the pre-application conference, the applicant may provide to the Zoning Administrator a description of the proposed development, the type of development approval sought, the location of the proposed project, and any other appropriate supporting documents such as a concept plan, maps, drawings, models, and any other information the Zoning Administrator deems necessary for the pre-application conference. The Zoning Administrator shall schedule a pre-application conference after receipt of a request for a pre-application conference and any appropriate submission materials.

#### C) REVIEW PROCESS

At the pre-application conference the applicant, the Zoning Administrator, and any other Township staff and regional, state, federal or adjacent local government representatives the Zoning Administrator deems appropriate to attend the pre-application conference, shall discuss the proposed development and the applicable procedures and standards.

### **14.3.4.4 TIER 1 REVIEW**

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### A) APPLICABILITY

A Tier 1 review applies to any of the following, where proposed use does not require any variance, and site plan conforms with all requirements of this *Ordinance*:

- 1) Single-family and two-family residential dwellings and their accessory structures on individual parcels;
- 2) All nonresidential developments that are not classified as subject to a conditional or special land use permit;
- 3) Accessory uses incidental to a conforming existing use;
- 4) Expansion and/or addition to an existing conforming use;
- 5) Accessory storage buildings in all Zoning Districts;
- 6) Commercial interior remodeling;
- 7) Paving;
- 8) Amendments to approved site plans;
- 9) Final site plans;
- 10) Any other site plans not delegated for review by the Planning Commission.

### B) REVIEW PROCESS

After an application is determined sufficient, the Zoning Administrator shall review the application while directing the applicant to contact any other review agencies for comment. After all necessary input is received, the Zoning Administrator shall render a written decision on the application within ten (10) days, except that where the applicant or the Zoning Administrator so requests; then the site plan shall be reviewed by the Planning Commission subject to their schedule, before final action by the Zoning Administrator within ten (10) days after the Planning Commission meeting. The Zoning Administrator shall take action to approve, approve with conditions, or deny with stated reasons.

## **14.3.4.5 TIER 2 REVIEW**

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### A) APPLICABILITY

A Tier 2 review applies to any of the following:

- 1) Individual single-family homes, duplexes, and accessory buildings associated with them, located within seventy-five (75) feet of the ordinary high water mark or the shoreline of an inland lake, stream or river;

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- 2) Any use permitted by right with conditions, which is specified as requiring site plan review in this *Ordinance*;
- 3) Ponds up to five (5) acres in size, and those located within five-hundred (500) feet of a lake, river, stream, or open Township drain;
- 4) Any other land use requests referred to the Planning Commission by the Zoning Administrator.

### B) PREPARATION OF STAFF REPORT

The Zoning Administrator shall prepare a Staff Report which shall state whether the application complies with all appropriate standards of this *Ordinance*. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. Staff reports may be prepared by a consultant to the Township where authorized by the Township Board.

### C) REVIEW PROCESS

- 1) The Zoning Administrator shall review the site plan per Article 14 and make a determination in accordance with the criteria described in Article 14, and such other standards contained in Article 9 of this *Ordinance* which relate to the conditional land use under consideration. A request for approval of a conditional land use which the Zoning Administrator finds is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes, shall be approved.
- 2) The Zoning Administrator may refer the application for a Conditional Land Use Permit to the Planning Commission for a decision. The Planning Commission shall review the site plan and make a determination in accordance with the same criteria in the same way as the Zoning Administrator, and in accordance with their standard review procedures. A request for approval of a land use or activity which the Planning Commission finds is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes, shall be approved.
- 3) Upon approval, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions of approval. If the application is denied, the Zoning Administrator shall identify the reasons for that denial. In such a case, an aggrieved applicant may appeal the Zoning Administrator's determination to the Zoning Board of Appeals, as described in Article 14.

#### **14.3.4.6 TIER 3 REVIEW**

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##### A) APPLICABILITY

A Tier 3 review applies to any of the following:

- 1) All platted subdivisions and condominium projects;



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- 2) All Special Land Uses;
- 3) All Planned Unit Developments;
- 4) All conditional rezoning requests;
- 5) Conversions of an existing building or part thereof from a residential use to a non-residential use; including resulting site improvements;
- 6) All expansions or enlargements to nonconforming uses or nonconforming structures that result in a need for additional parking spaces, per the standards of this *Ordinance*;
- 7) All ponds or lakes greater than five (5) acres;
- 8) Any earthwork greater than 20,000 square feet in size;
- 9) All other site plans for new land uses, expansions, or changes of use of existing land uses requiring:
  - a) A principal structure of more than five thousand (5,000) square feet or;
  - b) More than two (2) acres to be used for nonresidential land uses.

### B) PREPARATION OF STAFF REPORT

The Zoning Administrator shall prepare a Staff Report which shall state whether the application complies with all appropriate standards of this *Ordinance*. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. The Staff Report may be prepared by a consultant to the Township where authorized by the Township Board. The Staff Report shall be made available to the public five (5) calendar days before the first scheduled public hearing on the application.

### C) PUBLIC HEARING: PLANNING COMMISSION

- 1) The public hearing shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements of this *Ordinance* to be satisfied per the provisions of Section 14.4.1.
- 2) After notice, the Planning Commission shall conduct the hearing in accord with the provisions of Section 14.4.2.

### D) REVIEW PROCESS

- 1) The Planning Commission shall review the application, public comments, the Site Plan, and other pertinent information received, and shall make a determination in accordance with the criteria described in Section 14.5.6, and such other standards contained in Article 9 of the *Ordinance* which relate to the Special Land Use under consideration.
- 2) The Planning Commission may, by majority vote of its members, deny, approve, or approve with conditions the Special Land Use application. Its decision shall be incorporated in a statement of conclusions about the Special Land Use under

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consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which the Planning Commission finds is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes shall be approved.

- 3) Upon approval, or approval with conditions, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions imposed, if any, by the Planning Commission.
- 4) An appeal of a decision by the Planning Commission to approve, deny, or approve with conditions a Special Land Use Permit application may be taken to Circuit Court, and may not be first appealed to the Zoning Board of Appeals.

### **14.3.4.7 TEMPORARY CERTIFICATES OF ZONING COMPLIANCE**

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#### A) APPLICABILITY

Temporary Certificates of Zoning Compliance for those uses specifically authorized in Article 5.

#### B) REVIEW PROCESS

The application for the Temporary Certificate of Zoning Compliance may be approved, modified, conditioned, or denied by the Zoning Administrator based on the standards established in Article 14, and subject to such conditions as are reasonably necessary to minimize adverse impacts on abutting property, and protect the public health, safety and general welfare. The Zoning Administrator may refer the application for a Temporary Certificate of Zoning Compliance to the Planning Commission for a decision. The Planning Commission shall apply the same procedures and standards as the Zoning Administrator.

### **14.3.4.8 VARIANCES**

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If it is evident that in order for a site plan to be approved, one or more variances must be obtained, the Zoning Administrator shall so inform the applicant and explain the procedural steps and implications of initiating a variance request immediately following action by the Planning Commission. The applicant shall make the decision as to when or whether to proceed with a variance request.

### **14.3.4.9 APPEALS**

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Any applicant that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision. The ZBA shall review the decision of the Zoning

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Administrator to ensure that it is consistent with the standards contained in this *Ordinance* and rules established by agencies responsible for site plan review. The ZBA shall give written justification for their decision. The ZBA may not grant a variance to any element of a site plan unless an application for a variance has been filed; any such variance request shall be reviewed relative to the requirements of “Granting Variances”.

### **SECTION 14.4 NOTICE AND HEARING PROCEDURES**

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#### **14.4.1 PUBLIC NOTICE**

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##### **14.4.1.1 PUBLIC NOTIFICATION**

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All applications for development approval requiring public hearings shall comply with the *Michigan Zoning Enabling Act, PA 110 of 2006, as amended*.

#### A) CONTENT

All notices for public hearings, including those by publication in a newspaper or mail shall:

- 1) Identify the name, address, and telephone number of the applicant or the applicant’s agent
- 2) Describe the nature, scope, and purpose of the application or proposal
- 3) Identify the property that is the subject of the request, including a listing of all existing street addresses within the property, or if there is no street address the nearest cross street (street addresses are not required to be listed for any group of eleven (11) or more adjacent properties that are proposed for rezoning).
- 4) Indicate the date, time, and place of the public hearing(s)
- 5) Include a statement that the public may appear at the public hearing in person or by counsel, be heard, and submit evidence and written comments with respect to the application.
- 6) Include a statement describing when and where written comments will be received prior to the public hearing
- 7) Add information concerning how handicapped access will be accommodated if the meeting facility is not handicap accessible.

#### B) NOTICE REQUIREMENTS

When the provisions of this *Ordinance* require notice, the Zoning Administrator shall be responsible for preparing the content of the notice and implementing as follows:

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- 1) Publish the notice in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing.
- 2) Personally deliver, or deposit notice during normal business hours for delivery with the United States postal service or other public or private delivery service, not less than fifteen (15) days before the date of the hearing, to the following parties (except this provision does not apply to rezoning of any group of eleven (11) or more adjacent properties):
  - a. All owners of the property that is the subject of the request.
  - b. All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject of the request.
  - c. Occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
  - d. Each electric, gas, and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
  - e. For appeals of administrative decisions, requests for *Ordinance* interpretation, and variance requests to the Zoning Board of Appeals, if the request does not involve a specific parcel of property, notice need only be published as provided in (1) above and given to the person making the request as provided in (2) above.
- 3) Notice by mail/affidavit: Notice shall be deemed mailed by its deposit during normal business hours for delivery with the United States postal service, or other public or private delivery service, by first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed.

### C) TIMING OF NOTICE

Unless otherwise provided in the *Michigan Zoning Enabling Act, PA 110 of 2006, as amended*, or this *Ordinance*, notice shall be provided not less than fifteen (15) days before the hearing.

#### **14.4.1.2 REGISTRATION TO RECEIVE NOTICE BY MAIL**

The Township Clerk shall provide copies of all applications for development approval to the Zoning Administrator, who will provide notice to organizations that have submitted requests for written notice. Fees may be assessed in accordance with *P.A. 267 of 1967*, as amended for

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the provision of this notice. To be eligible for registration, the requesting party must provide the information in the form required by the Township Clerk to ensure notification can be made. All persons that have been registered must reregister annually to remain registered and continue to receive notification pursuant to this Section.

### **14.4.1.3 DEFERRAL OF REVIEW OF APPLICATION**

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A) SUBMISSION OF REQUEST

Any request for a deferral of a public hearing until a later date shall be submitted in writing to the Zoning Administrator.

B) ZONING ADMINISTRATOR REVIEW

The Zoning Administrator shall approve a request for deferral if it has been submitted prior to the time of notice of a public hearing. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the Zoning Administrator. The decision-making body may defer consideration at a public hearing on its own motion at any time.

### **14.4.1.4 WITHDRAWAL OF APPLICATION**

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A) SUBMISSION OF APPLICATION

Any request for a withdrawal of an application shall be submitted in writing to the Zoning Administrator.

B) PRIOR TO NOTICE OF PUBLIC HEARING

The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to the time of notice of a public hearing.

C) WITHDRAWAL

The Planning Commission may allow an applicant to withdraw an application at the request of the applicant at the public hearing.

### **14.4.1.5 NOTIFICATION OF DECISION**

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Notification of a decision on an application for development approval shall be provided by the Zoning Administrator to the applicant by mail within fourteen (14) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Zoning Administrator, during normal business hours.

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### **14.4.1.6 RECONSIDERATION OF APPLICATIONS**

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#### A) GENERAL

Whenever any application for development approval is disapproved, a similar application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body pursuant to the requirements of part (b) "Waiver of Time Limit" below. Only one request for Waiver of Time Limit may be submitted by the applicant during the one-year period.

#### B) WAIVER OF TIME LIMIT

The Waiver of Time Limit shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:

- 1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or
- 2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
- 3) A new application is proposed to be submitted that is materially different from the prior application; or
- 4) The final decision on the application was based on a material mistake or omission of fact that if known, would likely have resulted in a different determination.

### **14.4.1.7 EXAMINATION AND COPYING OF AN APPLICATION/OTHER DOCUMENTS**

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At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report, and materials submitted in support of or in opposition to an application in the office of the Zoning Administrator, subject to recognized exceptions under the *Freedom of Information Act, as amended*, or other state or federal law. Copies of such materials shall be made available at a reasonable cost.

### **14.4.2 PUBLIC HEARING**

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#### **14.4.2.1 PUBLIC HEARING PROCEDURES**

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## *Bessemer Township Zoning Ordinance*

All public hearings including but not limited to amendments to the text of this *Ordinance* and Zoning Map on a Rezoning; Conditional Rezoning; Planned Unit Development Permits; Condominium Project Permits, Conditional Land Use Permits; Special Land Use Permits; Variances, Ordinance Interpretations and Appeals, held pursuant to this *Ordinance* shall comply with the following procedures:

### A) CONDUCT OF PUBLIC HEARING

- 1) The burden of demonstrating that an application complies with applicable review and approval standards of this *Ordinance* is on the applicant, not the Township.
- 2) Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- 3) The Planning Commission, the Zoning Board of Appeals, or the Township Board may place reasonable and equitable limitations on the presentation of evidence and arguments including, as they believe necessary in a particular instance, excluding testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
- 4) In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence in writing for the record. Such offer shall be made at the public hearing and promptly provided.
- 5) Continuance of Public Hearing
  - a. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place and may keep the public presentation portion of the public hearing open to take additional testimony up to the point a final decision is made. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
  - b. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within thirty-six (36) hours, and the date, time and place of the continued hearing is announced at the time of the continuance and there is continued compliance with the *Open Meetings Act (P.A. 267 of 1976, as amended, Section 15.265(5))*.

### B) GENERAL PROCEDURES AND FINDINGS AT PUBLIC HEARING

- 1) The body conducting the hearing shall act in accord with any time limits established in this *Ordinance*. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the Township and the Township, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate).
- 2) The form of all decisions shall include at least the following elements:

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- a. A summary of the relevant information presented before the decision-making body.
- b. Summary of evidence in record.
- c. A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.
- d. A motion that includes approval, approval with specified conditions or disapproval (whichever is appropriate based on the findings above).
- e. A decision is final upon approval of the minutes of the body conducting the hearing at the next regularly scheduled meeting or at a special meeting of the decision-making body and as signified by the signature of the chairperson.

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### **SECTION 14.5 SITE PLAN REVIEW PROCEDURES**

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#### **14.5.1 AUTHORIZATION**

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Section 502 of the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*, permits a Township to require the submittal, review, and approval of a site plan detailing what is proposed on a property, in order to ensure conformance with this *Ordinance* and the applicable regulations of other government agencies, prior to granting zoning approval. Site plan review is a very important tool to ensure that the public health, safety and welfare of the community is protected as land is developed or redeveloped.



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### Purpose and Intent

It is the purpose of this section to require site plan review for certain buildings, structures, and uses that can be reasonably expected to have a significant impact on the air, water, and other natural resources, traffic patterns, the character of development and existing land uses in the area, or the capacity of public infrastructure and services. The requirements contained in this section are intended to reduce the hazards to life and property due to fire, flooding, soil erosion, poor surface water drainage, inadequate private sewage disposal systems, pollution, dust, fumes, noise, vibrations, noxious odors and other hazards; and to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage disposal, drainage, public education, recreation and other public improvements, and to promote the harmonious relationship of land uses through proper design.

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### **14.5.2 SITE PLAN REVIEW COMMITTEE**

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The Planning Commission shall serve as the Site Plan Review Committee.

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### **14.5.3 SITE PLAN REVIEW FEE**

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A fee shall be charged to the applicant for site plan review based on a schedule developed by the Planning Commission and approved by the Township Board.

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### **14.5.4 SITE PLAN REVIEW PROCEDURES**

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The Planning Commission shall act on a complete application within thirty (30) calendar days after its acceptance as a complete application by the Zoning Administrator. This time limitation may be extended only by the mutual consent of the applicant and the Committee Chair person.

If any Planning Commission member demonstrates there is a lack of compliance of a proposed site plan with the applicable rules, standards, or ordinances, that site plan shall not be approved until compliance is acknowledged. Any disapproval of a site plan shall be accompanied by the reasons for that disapproval and provided, in writing, to the applicant in a timely fashion. Site plans may be approved with reasonable conditions.

An approval of a site plan for a Conditional Land Use, Special Land Use, Planned Unit Development, condominium project, subdivision plat or conditional rezoning does not constitute the final approval of an applicable permit. Standards for review and approval of a Conditional Land Use Permit or a Special Land Use Permit are described in Article 9. Standards for review and approval of a condominium project and

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subdivision plats are described in Article 9. Standards for review and approval of a PUD are described in Article 10. Standards for review and approval of a conditional rezoning request are described in Section 14.7.

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### **14.5.5 SITE PLAN REVIEW STANDARDS**

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A site plan shall be approved if it contains the information required by the *Ordinance* and is in compliance with the standards required in the *Ordinance*, and with other applicable ordinances, and state and federal statutes.

#### **14.5.5.1 GENERAL STANDARDS**

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In reviewing a minor or major Site Plan, the Planning Commission shall consider the following standards, as applicable. Additional standards for conditional land uses, special land uses, and condominium projects (all in Article 9) and PUDs (Article 10) also apply and shall be reviewed as part of the Site Plan Review process.

##### **A) CHECKLIST**

The Zoning Administrator shall prepare a checklist of the following standards to ensure each is reviewed and compliance is determined prior to approval.

##### **B) REQUIREMENTS**

- 1) The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this *Ordinance*.
- 2) Ingress and egress to the property and proposed structures thereon shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe or emergency.
- 3) Every structure or dwelling unit shall have access to a public or approved private street, walkway, or other areas dedicated to common use.
- 4) Appropriate measures shall be taken to ensure that dewatering on a site will not adversely affect neighboring properties or the Township storm drainage system.
- 5) Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create puddles in paved areas.
- 6) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and, where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

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- 7) That any adverse effects of the proposed development and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping.
- 8) That existing stands of trees and large individual trees will be preserved to the extent feasible, especially along property boundaries and any lot line shared with a public road.
- 9) Off-street parking and loading areas where required, shall be satisfactory in size, shape and design and not present noise, glare, odor or other nuisance effects on adjoining properties and properties in the proposed development above a level enjoyed by existing similar uses in the area, or in that zone.
- 10) The type, dimensions and character of open spaces, landscaping, screening and buffering shall enhance the design, character, use and value of the property and abutting lands and waters.
- 11) Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties.
- 12) Signs, if any, and their proposed size, shape, height and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures and uses of adjoining properties.
- 13) Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are screened from view from the street or abutting properties when not in use.
- 14) The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water with special attention to the following:
  - a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
  - b. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
  - c. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
  - d. State and federal rules for record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
  - e. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the Michigan Department of Environmental Quality.
  - f. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.
  - g. No hazardous substances shall be stored in designated wellhead protection areas.

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- 15) All storm water drainage plans shall be approved and sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive this requirement, defer the requirement, or request a fully engineered storm drainage plan. After completion of construction, an “as-built” drawing and plan of the development, sealed by a Registered Professional Civil Engineer, shall be filed with the Planning Commission showing erosion control plans, the standards of this *Ordinance*, and any conditions of permit approval.
- 16) Historic structures and historic or archeological artifacts will be properly respected and preserved.
- 17) On site pathways, bicycle paths, and snowmobile trails shall minimize negative impacts on other users of the site and adjoining property and shall connect with abutting trails or pathways whenever feasible. New uses shall not impede the use of existing off site trails.

### **14.5.5.2 SPECIAL LAND USE REVIEW STANDARDS**

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The Planning Commission shall make a specific finding of compliance with each of the following standards:

- A) The Special Land Use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- B) The Special Land Use shall not change the essential character of the surrounding area.
- C) The Special Land Use shall not be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other features of the proposed use.
- D) The Special Land Use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
- E) The Special Land Use shall meet the requirements of Article 9 specific to that use.
- F) The Special Land Use shall meet all other general requirements as presented in Article 5.
- G) The Special Land Use shall conform with all applicable local, county, state, and federal requirements for that use.
- H) The applicant is in substantial compliance with any previously issued Zoning Permits and is not otherwise disqualified from receiving a permit under Section 14.8 of the *Ordinance*.
- I) The Planning Commission may impose conditions with approval of a Special Land Use Permit which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this *Ordinance*. Such conditions shall be considered an integral part of the Special Land Use Permit.

### **14.5.5.3 STANDARDS FOR TEMPORARY USES**

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A permit for a proposed temporary use shall be issued by the Zoning Administrator only if each of the following criteria is met:

- A) The proposed use is clearly of a temporary nature.

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- B) The temporary use shall not endanger the public health, safety or welfare of the Township, or adjacent residents.
- C) Structures of temporary uses shall be provided, if required, with safe, sanitary and effective systems for water supply and disposal of wastes, approved by the Health Department.
- D) The proposed temporary use shall meet all lot, yard, setback and other requirements of this *Ordinance*.
- E) The proposed temporary use is not a Special Land Use of the respective zoning district.
- F) The nature and intensity of the temporary use and the size and placement of any temporary building or structure shall be planned so that the temporary use, building or structure will be compatible with existing development on abutting property.
- G) Except for a garage sale, the temporary use shall not be located within an accessory building or structure.
- H) The parcel shall be of sufficient size to adequately accommodate the temporary use, building or structure.
- I) The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or structure.
- J) Off-street parking areas are of adequate size for the particular temporary use, building or structure, are safely located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
- K) Signs shall conform to the provisions of this *Ordinance*.
- L) Any lighting or noise shall be directed and controlled so as to not create a nuisance to neighboring property owners.
- M) All the criteria specific to a particular temporary use are met.
- N) The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this *Ordinance* and other applicable federal, state, or local laws, regulations, ordinances or codes.

### **14.5.5.4 OTHER STANDARDS**

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Before granting approval of any application, the Zoning Administrator and Planning Commission shall be reasonably sure that the proposed development fully complies with all the following, as are relevant and may condition approval of the site plan on conformance with any of the following:

- A) All applicable State laws administered by the Michigan Department of Transportation, Department of Natural Resources and the Environment, and/or Department of Agriculture;
- B) County and local ordinances;
- C) The adopted published rules, standards or policies of the Bessemer Township Planning Commission;
- D) The published rules, standards or policies of the Gogebic County Drain Commissioner;
- E) The published rules, standards or policies of the Gogebic County Road Commissioner;
- F) The published rules, standards or policies of the District Health Department;
- G) The fire safety and emergency vehicle access requirements of the *Michigan Building Code* and/or any local Fire Code having jurisdiction;

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H) Any approval shall include the filing of copies of any permits required under any laws described in Article 14, the compliance of which shall be made a condition of the approval of a site plan.

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### **14.5.6 CONFORMITY TO APPROVED SITE PLAN**

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Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the permit holder or land owner shall be notified of a violation of this *Ordinance*, and if the circumstances warrant, issued a stop work or cease operations order per the requirements of Article 14.

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### **14.5.7 SITE PLAN AMENDMENTS**

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No changes shall be made to an approved site plan prior to, during, or after construction except upon mutual agreement between the applicant and the Township, and by application to the Zoning Administrator.

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### **14.5.8 AS-BUILT SITE PLAN SUBMITTAL**

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Once a project for which a site plan was approved is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of completion of the project (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new streets and/or large buildings are involved.

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## **SECTION 14.6 COMPLAINTS, PERMIT SUSPENSION, REVOCATION, AND VIOLATION PROCEDURES**

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### **14.6.1 COMPLAINTS, SUSPENSION, AND REVOCATION OF PERMITS**

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#### **14.6.1.1 COMPLAINTS REGARDING VIOLATIONS**

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Whenever the Zoning Administrator becomes aware of or receives a complaint alleging a violation of this *Ordinance*, the Zoning Administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or

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will be taken. Any and all building or land use activities considered possible violations of the provisions of this *Ordinance* observed or communicated to local Law Enforcement or to any Township officials shall be reported to the Zoning Administrator.

### **14.6.1.2 PERSONS LIABLE**

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The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this *Ordinance* may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

### **14.6.1.3 PROCEDURES**

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#### A) HANDLING VIOLATIONS WITH NOTICE

If the Zoning Administrator becomes aware of or receives a complaint of an alleged violation, the process shall be as follows:

- 1) A complaint form shall be assigned a number.
- 2) A preliminary visit shall be made at the site to identify the alleged violation.
- 3) If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the compliance is to be completed. The owner or contractor shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.
- 4) Where the violation is one of unlawful construction, reconstruction, or removal, a "Stop Work" notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner's agent shall also be informed of their right to appeal the decision of the Zoning Administrator.
- 5) The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
- 6) If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the Township Attorney shall be informed to determine further action.

#### B) HANDLING VIOLATIONS WITHOUT NOTICE

Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this *Ordinance*, if the violation continues, such as if the violation is one of unlawful construction, reconstruction, alteration, removal or usage, or poses a danger to the public health, safety or welfare, then the Zoning Administrator may seek enforcement without prior written notice by requesting the Township Attorney to invoke any one of the remedies authorized in this *Ordinance*.

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### **14.6.1.4 SUSPENSION OF A PERMIT**

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Any permit issued shall become invalid if the authorized work is not initiated within one (1) year of receipt of a permit, or is suspended or abandoned for a period of six (6) months after the time of commencing the work unless the development proposed shall have passed its first building inspection.

### **14.6.1.5 PERMIT REVOCATION**

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#### **A) FALSE INFORMATION OR FAILURES**

A Zoning Compliance, Conditional Land Use, Special Land Use, Planned Unit Development, or Condominium Project Permit may be revoked by the permit-issuing authority in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or in case of failure or neglect to develop or maintain the property in accordance with the plans submitted, the requirements of this Section, or any additional requirement lawfully imposed by the permit-issuing authority or Zoning Board of Appeals. Upon permit revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

#### **B) NOTIFICATION AND APPEALS**

- 1) Before a Minor Conditional Land Use or Zoning Permit may be revoked, the owner, contractor or alleged violator shall be notified in writing of the reason for such revocation and their right to appeal the decision of the Zoning Administrator to the Zoning Board of Appeals.
- 2) Before a Major Special Land Use Permit, Planned Unit Development or Condominium Project may be revoked, the permit recipient shall be given a ten (10) day advance notice of intent to revoke, along with the alleged reasons for the revocation and the right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Administrator shall provide the permittee a written statement of the decision and the reasons therefore.
- 3) No person may continue to make use of land or buildings in the manner authorized by any Zoning Compliance, Conditional Land Use, Special Land Use, Planned Unit Development or Condominium Project after such permit has been revoked in accordance with this section.



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### **14.6.2 JUDICIAL REVIEW**

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A person having an interest affected by a decision of the Zoning Board of Appeals and/or any other body, board or official under this *Zoning Ordinance*, and who has otherwise exhausted their administrative remedies under this *Ordinance*, may appeal to the Circuit Court for Gogebic County. All such appeals shall be filed with the Gogebic County Clerk, within twenty-one (21) calendar days after the date the written decision is signed by the Zoning Administrator, or chairperson of the body, board or commission that made the final decision in the matter.

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## **SECTION 14.7 AMENDMENTS**

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### **14.7.1 PURPOSE**

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It is the purpose of this Section to establish the procedures and standards for amendment of the text and Zoning Map of this *Ordinance*.

### **14.7.2 INITIATION OF AMENDMENTS**

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The regulations and provisions stated in the text of this *Ordinance* and the boundaries of zoning districts shown on the Zoning Map of Bessemer Township may be amended pursuant to the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*. Amendments may be initiated by the Township Board, the Planning Commission, by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Planning Commission.

### **14.7.3 FEES**

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The Township Board shall establish, by resolution, fees for zoning amendment petitions. Such fees shall be paid in full at the time of application, and no part of such fees shall be returnable to the petitioner. Fees shall not be required for amendments proposed or requested by the Township Board or the Township Planning Commission.

### **14.7.4 AMENDMENT PROCEDURES**

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All petitions for text amendment, rezoning or Zoning Map change shall be submitted and reviewed per the requirements of this Section. All petitions for a conditional rezoning shall be reviewed and approved per the requirements of Section 14.7.9.

## *Bessemer Township Zoning Ordinance*

The Planning Commission may solicit information and testimony from officials in other public offices including, but not limited to, the District Health Department, County Road Commission and/or MDOT as applicable, County Drain Commissioner, any school district affected, any State or Federal agency or office with an interest in the proposed change, any firm hired by the Township to provide a review or comments on the proposed amendment, the County Law Enforcement and the Fire Chief, the County Soil Erosion, Sedimentation and Storm Water Control agent, any other the Township Planning Commission believes should be notified.

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### **14.7.5 PUBLIC HEARING**

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The Planning Commission shall establish a date for and conduct at least one (1) public hearing at a regular or special meeting on each petition for amendment; notice of which shall be given pursuant to the requirements of Section 14.4.1. If an individual property or several adjacent properties are proposed for rezoning; notice shall be given pursuant to the requirements of Section 14.4.1. The Planning Commission shall conduct the public hearing consistent with the hearing procedures in Section 14.4.2.

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### **14.7.6 FINDING OF FACT REQUIRED**

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In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations for the proper disposition of the petition to the Bessemer Township Board. The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:

- 14.7.6.1** What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?
- 14.7.6.2** What, if any, error in judgment, procedure, or administration was made in the original *Ordinance* which justifies the petitioned change in zoning?
- 14.7.6.3** What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?
- 14.7.6.4** What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?
- 14.7.6.5** Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
- 14.7.6.6** Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
  - A) Surface water drainage problems
  - B) Wastewater disposal problems
  - C) Adverse effect on surface or subsurface water quality
  - D) The loss of valuable natural resources such as forest, wetland, historic, or scenic sites, wildlife, mineral deposits, or valuable agricultural land.

## *Bessemer Township Zoning Ordinance*

- 14.7.6.7** Does the petitioned zoning change generally comply with the policies and uses proposed for the area in the adopted *Bessemer Township Master Plan*? If not, and if the proposed zoning change is reasonable in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.
- 14.7.6.8** Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
- 14.7.6.9** Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- 14.7.6.10** If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located (after considering all of the uses permitted by right, by special permit or as conditional uses)?
- 14.7.6.11** Is another procedure, such as a Variance, Conditional Land Use, Special Land Use, or Planned Unit Development procedure a more appropriate alternative than a rezoning?

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### **14.7.7 PLANNING COMMISSION RECOMMENDATIONS**

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All findings of fact shall be made in writing and shall be a part of the public records of the meeting of the Planning Commission and the Township Board. The Planning Commission shall not forward a recommendation to the Township Board unless all of the findings in Section 14.7.6 and other factors identified by the *Ordinance* are affirmatively resolved. After the hearing, the Planning Commission shall submit a summary of the comments received at the public hearing, its findings of fact and the proposed amendment (including any zoning maps and other related material) to the Township Board.

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### **14.7.8 CONSIDERATION BY THE TOWNSHIP BOARD**

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After receiving the recommendations of the Planning Commission, the Township Board, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by a roll call vote. The amendment shall be approved by a majority vote of all of the members of the Township Board. The Township Board may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the Township Board shall be published in a newspaper which circulates in the Township. The notice shall be given not less than fifteen (15) days before the hearing.

Further, it is understood pursuant to the *Michigan Zoning Enabling P.A. 110 of 2006, as amended*, that the Township Board shall make no change in the proposed amendment without first referring the petition back to the Planning Commission which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Township Board, after which the Township Board shall take

## *Bessemer Township Zoning Ordinance*

such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the Township Board shall make specific mention of their objections to the Planning Commissions' findings and recommendations.

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### **14.7.9      CONDITIONAL REZONING**

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#### **14.7.9.1    INTENT**

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It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the *Michigan Zoning Enabling Act (MCL125.3405), as amended*, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

#### **14.7.9.2    APPLICATION AND OFFER OF CONDITIONS**

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##### A)    GENERAL PROCESS

- 1)    An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process. A pre-application conference is strongly suggested.
- 2)    The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- 3)    The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- 4)    The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

##### B)    PROCESS FOR SPECIAL SITUATIONS

- 1)    Any use or development proposed as part of an offer of conditions that would require a Conditional or Special Land Use Permit under the terms of this *Ordinance* may only be commenced if a Conditional or Special Land Use Permit for such use or development is ultimately granted in accordance with the provisions of this *Ordinance*.

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- 2) Any use or development proposed as part of an offer of conditions that would require a Variance under the terms of this *Ordinance* may only be commenced if a Variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this *Ordinance*.
- 3) Any use or development proposed as part of an offer of conditions that would require Site Plan approval under the terms of this *Ordinance* may only be commenced if Site Plan approval for such use or development is ultimately granted in accordance with the provisions of this *Ordinance*.

### **14.7.9.3 PLANNING COMMISSION REVIEW**

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The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 14.7.6 of this *Ordinance*, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

### **14.7.9.4 TOWNSHIP BOARD REVIEW**

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After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 14.7.6 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board may, in accordance with Section 401(3) of the *Michigan Zoning Enabling Act (MCL.125.3401(3))*, as *amended*, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the *Ordinance* adopted by the Township Board to accomplish the requested rezoning.

### **14.7.9.5 ADMINISTRATIVE REQUIREMENTS**

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#### A) STATEMENT OF CONDITIONS

The Statement of Conditions shall:

## *Bessemer Township Zoning Ordinance*

- 1) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
- 2) Contain a legal description of the land to which it pertains.
- 3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
- 4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
- 5) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the County with the Register of Deeds.
- 6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

### B) OTHER STEPS

- 1) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk and Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
- 2) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.

### **14.7.9.6 IMPLEMENTATION**

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#### A) COMPLIANCE

- 1) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.
- 2) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement

## *Bessemer Township Zoning Ordinance*

of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this *Zoning Ordinance* and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law. See Section 14.8.

- (3) No permit or approval shall be granted under this *Ordinance* for any use or development that is contrary to an applicable Statement of Conditions.

### B) TIMING

- 1) Unless another time period is specified in the *Ordinance* rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within twelve (12) months after the rezoning took effect and thereafter proceed diligently to completion.
- 2) This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or is otherwise inconsistent with sound zoning policy.
- 3) If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in *MCL 125.3405(2)*. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

### C) SUBSEQUENT REZONING OF LAND

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 14.7 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

### D) AMENDMENT OF CONDITIONS

During the time period for commencement of an approved development or use specified per Section 14.7 above, or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of

## *Bessemer Township Zoning Ordinance*

Conditions. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

E) TOWNSHIP RIGHT TO REZONE

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this *Ordinance* and the *Michigan Zoning Enabling Act, as amended*.

F) FAILURE TO OFFER CONDITIONS

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

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### **14.7.10 NOTICE OF AMENDMENT ADOPTION**

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Following the adoption of an amendment by the Bessemer Township Board, one (1) notice of adoption shall be published in a newspaper of general circulation in the County within fifteen (15) days after adoption by the Township Board. The notice of adoption shall include the following information:

- A) A summary of the regulatory effect of the amendment (including the geographic area affected) or the text of the amendment.
- B) The effective date of the amendment.
- C) The place and time where a copy of the *Ordinance* may be purchased or inspected.

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### **14.7.11 OPTIONS UPON DENIAL OF AMENDMENT REQUEST**

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A property owner whose amendment or rezoning request is denied may file an appeal with Circuit Court. If the property owner challenges that the denial of the amendment has the result of leaving the property owner with no reasonable or economically viable use of the property, then the property owner may request consideration of a Hardship PUD per the requirements of Section 10.7, Hardship Planned Unit Development.



## *Bessemer Township Zoning Ordinance*

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### **14.7.12 RESUBMITTAL**

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No application for a rezoning which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the Township Board to be valid.

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### **14.7.13 COMPREHENSIVE REVIEW OF ZONING ORDINANCE**

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The Planning Commission shall within two years and at intervals of not more than five (5) years thereafter, examine all the provisions of this *Ordinance* and the location of zoning district boundary lines and shall submit a report to the Township Board recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

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## **SECTION 14.8 VIOLATIONS AND PENALTIES**

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### **14.8.1 PURPOSE**

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This Section is adopted to establish provisions for violation of the Zoning Ordinance. Authority for these provisions is found in Section 407 of the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*, which requires the Township Board to establish a method for addressing violations.

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### **14.8.2 INSPECTION OF VIOLATION**

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The Zoning Administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found in violation of this *Ordinance*. The Zoning Administrator shall issue a notice of Zoning Ordinance violation to the owner and occupant of the lot or parcel upon which the zoning violation has occurred. This notice shall include at least the following: 1) Date and location of each violation observed by the Zoning Administrator, 2) Names and addresses of owners and occupants, 3) The specific Section(s) of the *Ordinance* which has been violated, and 4) the length of time allowed before further prosecution of the violation. All violations shall be corrected within a period of thirty (30) days after the order to correct is issued, or as long as six (6) months, as the Zoning Administrator shall permit. A person not correcting a violation within this period shall be issued a zoning citation remanding the violation to the local district court.

## *Bessemer Township Zoning Ordinance*

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### **14.8.3 VIOLATIONS AND PENALTIES**

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Violations of any provisions of this *Ordinance* are declared to be nuisance per se. It shall be unlawful for any person to commence operations of any kind that are in violation of the terms of this *Ordinance* and any violations shall be subject to the penalties herein prescribed.

#### **14.8.3.1 TYPES OF VIOLATIONS**

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##### **A) MISDEMEANOR**

Unless a violation of this *Ordinance* is specifically designated in Section 14.8 as a municipal civil infraction, the violation shall be deemed a misdemeanor. Any person deemed guilty of a misdemeanor shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than five hundred dollars (\$500.00), or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate punishable offense. The Township Attorney may institute those remedies provided by statute, court rule, and case law to prevent or remove any unlawful erection, construction, maintenance, or use. Damages, costs, and reasonable attorney fees shall be paid to compensate the Township for its cost of *Ordinance* enforcement. The imposition of any sentence shall not exempt the offender from compliance with the provision of this *Ordinance*.

##### **B) MUNICIPAL CIVIL INFRACTION**

The following violations of this Ordinance may be handled as a municipal civil infraction:

- 1) A violation of the terms of an approved Certificate of Zoning Compliance.
- 2) A violation of the terms of an approved Site Plan.
- 3) A violation of the terms of an approved Conditional or Special Land Use Permit.
- 4) A violation of the terms of an approved Planned Unit Development Permit.
- 5) A violation of any variance, condition, or other approval of the ZBA.
- 6) A violation of any approved sign permit.
- 7) A violation of general standards regarding illegal maintenance of junk on a lot.

#### **14.8.3.2 CIVIL AND CRIMINAL PENALTIES**

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Each day that a violation exists constitutes a separate offense or infraction. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

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### A) CIVIL FINE

The sanction for any violation of the Bessemer Township Zoning Ordinance which is a municipal civil infraction shall be a civil fine plus any costs, damages, expenses and other sanctions. The Zoning Administrator, together with deputies of local law enforcement, are the Township officials authorized to issue municipal civil infraction violation notices and municipal civil infraction violation citations under this *Ordinance*.

### B) CIVIL ACTION

In addition to enforcing violations as misdemeanors or municipal civil infractions, violations of this *Ordinance* may be enforced by civil action along with any other remedies provided by law. Violations of the *Ordinance* are a nuisance per se, and adjudication of responsibility for a municipal civil infraction violation of this *Ordinance* shall not preclude other civil proceedings to abate such nuisance.

### C) NO PERMIT FOR VIOLATORS

The Zoning Administrator may refuse to issue new Zoning Permits to a person who has failed to correct violations or to any person representing a firm which has failed to correct violations of this *Ordinance* or the *Michigan Construction Code Act, Public Act 230 of 1972*, or the *Land Division Act, Public Act 288 of 1967, as amended*.

### **14.8.3.3 SCHEDULE OF FINES**

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A) A person, corporation, or firm who violates any provision of the *Bessemer Township Zoning Ordinance* that is found responsible by the District Court for a municipal civil infraction shall pay a civil fine of not more than \$500, plus costs and other sanctions, for each infraction.

B) Repeat offenses shall be subject to increased fines as set forth below. As used in this subsection, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of the section of Bessemer Township Zoning Ordinance committed by a corporation, person, or firm within any twenty-four (24) month period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under those subsections shall be as follows:

- 1) The fine for any offense that is a repeat offense shall be no less than \$140 plus costs and other sanctions.
- 2) The fine for any offense that is a second repeat offense shall be no less than \$500 plus costs and other sanctions.

## **ARTICLE 15: DEFINITIONS**

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### **SECTION 15.1 RULES OF MEASUREMENT**

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#### **15.1.1 HEIGHT MEASUREMENT**

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A building or structure shall adhere to both the maximum story and maximum height regulations as specified in the District standards, except as otherwise provided in this *Ordinance*.

##### **15.1.1.1 HEIGHT IN FEET**

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The overall building height shall be measured as the vertical distance in feet from the average grade (measured as the average elevation of the two side lot lines measured at the front setback line) to the highest point of a building. To determine highest point of various roof types, see *Figure 15.5* which illustrates height measurement with various roof types. The height of any parapet wall or safety railing enclosing outdoor livability space or decks on a flat roof shall be included in the measurement of overall building height in feet.

##### **15.1.1.2 HEIGHT IN STORIES**

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Overall height in stories shall be measured as the total number of stories beginning with the first story having its finished floor surface above the average grade as defined in Section 15.9. A basement shall be considered a “story” for purposes of measuring overall building height in stories if any of the following is true:

- A) More than fifty (50) percent of the total building perimeter is above finished grade so that the vertical distance from the average grade to the floor is less than the vertical distance from the average grade to the ceiling.
- B) The basement is a walk-out basement.

#### **15.1.2 SITE LAYOUT MEASUREMENTS**

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##### **15.1.2.1 LOT SIZE**

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Lot size is the total area within the boundaries of a property’s lot lines (parcel area), excluding adjacent or abutting right-of-way areas or public access easements.

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### **15.1.2.2 LOT WIDTH**

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Lot width is the horizontal distance between the side lot lines measured along the front lot line. In the case of a curved front lot line, the horizontal distance as measured on a tangent line running between the two side lot lines where they meet the front lot lines. For corner lots having only one side lot line, the distance shall be measured from that side lot line to the opposing front lot line.

### **15.1.2.3 FRONT SETBACK**

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Front Setback is the minimum distance by which any building or structure must be separated from a street right-of-way or front lot line. The Front Setback is measured from and perpendicular to the front lot line to the nearest foundation or building wall.

### **15.1.2.4 REQUIRED SIDE OR REAR YARDS**

---

Required side and rear yards are measured from and perpendicular to the side interior or rear lot line abutting another lot or a public alley. The required yard reflects a minimum distance between the lot line and the nearest foundation or building wall of any structures.

### **15.1.2.5 SETBACK OR YARD EXCEPTIONS**

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For lots less than seventy-five (75) feet in width, the Zoning Administrator, upon consultation with the Planning Commission, may reduce required setbacks or yards to reflect the established context within that same zoning district for existing lots of similar size, or to facilitate maximum solar access for the subject lot or residence.

### **15.1.2.6 LOT COVERAGE (BUILDINGS AND STRUCTURES)**

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- A) Lot coverage is the percentage of a lot that is covered by buildings and structures. Lot coverage regulations are intended to help preserve open space and privacy.
- B) Lot coverage shall be measured as the gross area of the actual footprint of the foundations of all principal and accessory buildings on the site, plus the gross area of the footprint of any accessory structure not expressly excluded in Section 15.1.2.6.C, plus the gross area of any enclosed ground floor or upper story projections beyond the actual footprint, divided by the total gross square foot area of the lot.
- C) Exclusions from the lot coverage calculation include:
  - 1) Areas on a lot open to the sky (unenclosed) with a finished surface including:
    - a. Vegetation (landscaping, gardens) or paved surfaces (both pervious and impervious); or
    - b. Unenclosed area of patios, decks, or gazebos
    - c. Unenclosed areas covered overhead by a pervious material such as lattice, or a trellis

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- 2) Area on a lot occupied by an unenclosed porch or balcony accessory to a principal structure, up to a maximum of four hundred (400) square feet.
- 3) One-half (1/2) of the area on a lot occupied by a detached accessory dwelling unit to a maximum of five hundred (500) square feet.

### **15.1.2.7 TOTAL IMPERVIOUS SURFACE COVERAGE**

---

Total impervious surface coverage is the percentage of total area of impervious surfaces on a lot. The intent is to preserve a percentage of open space for the containment of stormwater on the property. Total impervious surface coverage shall be measured as the gross area of the footprint of all impervious surfaces on a lot (including all buildings, structures, and impervious paved or covered areas) divided by the total gross square foot area of the lot (not including areas in the public right-of-way). Site plan review for the purpose of determining mitigation strategies will be triggered by total impervious surface percentages exceeding *Ordinance* standards.

### **15.1.2.8 SEPARATION DISTANCE**

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#### **A) BETWEEN BUILDINGS**

Separation shall be measured as the horizontal distance between the two closest portions of each building's exterior walls.

#### **B) BETWEEN USES**

When measuring a required separation between uses, distance shall be determined from the nearest point of a structure or part of a multi-use structure occupied by the use requiring separation to the nearest point of a structure or part of a multiple structure occupied by a use from which the separation is to be effected or established. In case a portion of the use requiring separation is operated outside a building or structure, the separation shall be measured from the nearest point of the lot occupied by the use requiring separation to the nearest point of a structure or part of a multiple structure occupied by a use from which the separation is to be effected or established.

#### **C) BETWEEN USES AND A ZONE DISTRICT**

When measuring a required separation between a use and a zone district, distance shall be determined from the nearest point of a structure or part of a multi-use structure occupied by the use requiring separation to the nearest point of the zone district boundary from which the separation is to be effected or established. In case a portion of the use requiring separation is operated outside a building or structure, the separation shall be measured from the nearest point of the lot occupied by the use requiring separation to the zone district boundary from which the separation is to be effected or established.

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**15.1.3 DESIGN MEASUREMENTS**

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**15.1.3.1 FLOOR AREA**

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Floor area is calculated as the sum of the horizontal areas of each floor of a building or unit intended for occupancy, measured from the interior faces of the exterior walls, excluding basements or attics not intended for occupancy, attached garages or space used for off-street parking or loading, breezeways, and unenclosed porches.

**15.1.3.2 TRANSPARENCY**

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Transparency is measured as the total amount of transparent surface provided on a street-facing (named or numbered street) building façade (including permitted alternatives to the use of transparent glass), divided by the total length of that same street-facing building façade, provided that:

- A) Window glazing used to comply with transparency standards shall be clear and shall transmit at least 65 percent of the visible daylight; and
- B) No interior or exterior modifications, including temporary and permanent signage, window tinting, furnishings, fixtures, equipment, or stored items within three (3) feet of the windows will be allowed to reduce the effective minimum transparency standards by more than twenty-five (25) percent. Open display of individual merchandise is permitted.

**15.1.3.3 LANDSCAPE OPACITY**

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Landscape opacity is measured as the percentage of a prescribed area to be obscured by plants as observed from the public space such as a street or sidewalk. This is usually used in relation to a specified screening height according to an anticipated growth period.

**15.1.3.4 FENCE AND WALL HEIGHT**

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Fence and wall height shall be measured from the base of the fence or wall at the higher of the finished grade at the inside or outside of the fence or wall, to the topmost point of the fence or wall.

## **SECTION 15.2    RULES OF CONSTRUCTION**

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The following rules of construction apply to the text, tables, and illustrations of this *Ordinance*:

- The particular shall control the general. The use of a general or similar term shall not be taken to be the same as the use of any other specific term.
- In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- A "building" or "structure" includes any part thereof.
- The phrase "used for" or "occupied" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- The word "person" includes an individual, a corporation, a limited liability corporation, a partnership, a trust, a firm, an incorporated association, or any other similar entity.
- Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - "And" indicates that all the connected items, conditions, provisions or events shall apply.
  - "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- Words and phrases not otherwise defined in this Ordinance shall have the meaning customarily assigned to them.
- The word "lot" includes the word "plot," "tract," or "parcel".
- The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended. The "Township" is Bessemer Township, State of Michigan; the "Township Board" is the Township Board of Bessemer Township; the "Planning Commission" is the Planning Commission of Bessemer Township.
- All statutory citations are to statutes as amended, including codifications and repeals if a new statute is adopted with a similar scope and purpose.



**SECTION 15.3    ACRONYMS**

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The following acronyms are used in this Code:

ADT –	Annual average two-way daily traffic volume
ATV –	All Terrain Vehicle
C –	Use Permitted By Right with Conditions
DEQ –	Michigan Department of Environmental Quality
ECHO –	Elder Cottage Housing Opportunity
EPA–	United States Environmental Protection Agency
FCC –	Federal Communication Commission
FEMA –	Federal Emergency Management Authority
FIRM –	Flood Insurance Rate Map
HUD –	Housing and Urban Development
HVAC –	Heating, ventilation, air conditioning units
kv –	Kilovolt
MCL –	Michigan Compiled Laws
MDOT –	Michigan Department of Transportation
MHP –	Mobile Home Park or Manufactured Housing Park
P –	Use Permitted by Right
P.A. –	Public Act
PUD –	Planned Unit Development
ROW –	Right-of-Way
RV Park –	Recreational Vehicle Park
S –	Special Land Use
SOB –	Sexually Oriented Business
USC –	United States Code
WECS –	Wind Energy Conversion System

**SECTION 15.4 DEFINITIONS – A**

**Abutting** (*same as Adjacent, Contiguous*)

Next to, touching, having property or district lines in common.

**Access**

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

**Accessible**

In reference to a parcel, means that the parcel has an area where a driveway provides vehicular access or is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of MDOT or the County Road Commission under *P.A. 200 of 1969, MCL 247.321 to 247.329, as amended*, and of the Township; or has an area where a driveway can provide vehicular access or is served by a proposed easement that will provide vehicular access to an existing road or street and meet all such applicable location standards. Per the *Land Division Act, P.A. 288 of 1967, MCL 560.102 as amended*.

**Access Management**

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

**Accessory Building or Structure**

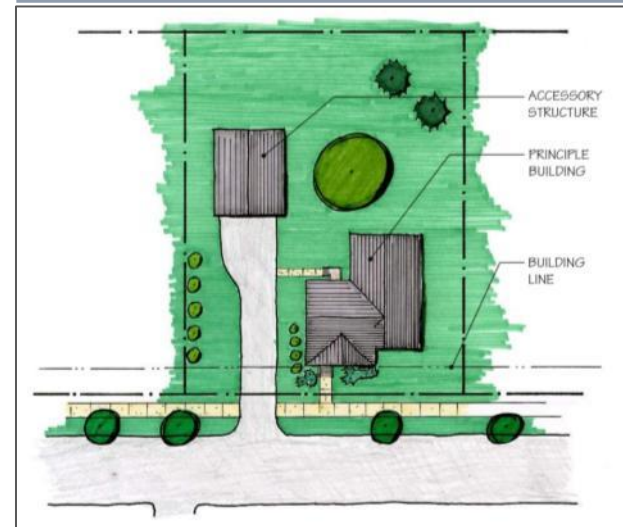
A building or structure located on the same lot as the principal building, attached or detached, but customarily incidental and subordinate to the principal building. Except as otherwise permitted by this *Ordinance*, an accessory building or accessory structure shall not be used for human habitation.

**Accessory Dwelling Unit** (*see also ECHO housing*)

A separate and complete dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, either within the same structure as the principal dwelling unit or in an accessory structure on the same lot.

**Accessory Use** (*See also Home Occupation*)

Figure 15-1: Accessory Building



## *Bessemer Township Zoning Ordinance*

A use that: (1) is subordinate in area, extent, and purpose to the principal use; (2) is customarily found in connection with; (3) is incidental to; and (4) is located on the same lot as the principal use (except in the case of some accessory off-street parking spaces or loading). For example, a retail business is not customarily considered incidental to a residential use. Residential accessory uses may include storage of household goods, gardening, private swimming pools, and other similar uses.

### **Acre**

A land area of 43,650 square feet.

### **Acre, Net**

The total area within the lot lines of a parcel of land after public street easements or other areas to be dedicated or reserved for public use are deducted from the parcel.

### **Acre, Gross**

The total area measured to the property lines of the parcel or lot.

### **Addition** (*same as Expansion*)

Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

### **Adjacent** (*same as Abutting, Contiguous*)

Next to, touching, having property or district lines in common.

### **Adult Foster Care Congregate Facility**

An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care per *P.A. 218 of 1979, MCL 400.703, as amended*.

### **Adult Foster Care Facility**

A governmental or nongovernmental establishment that provides foster care to adults, and includes facilities 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. Does not include licensed nursing homes (*P.A. 368 of 1978, MCL 333.20101 to 333.22260, as amended*); licensed homes for the aged (*P.A. 368 of 1978, MCL 333.20101 to 333.22260, as amended*); licensed hospitals (*P.A. 368 of 1978, MCL 333.20101 to 333.22260, as amended*); hospital for the mentally ill or a facility for the developmentally disabled (*P.A. 258 of 1974, MCL 330.1001 to 330.2106, as amended*); county infirmaries (*P.A. 280 of 1939, MCL 400.55, as amended*); substance abuse rehabilitation centers, maternity homes, hotel or rooming houses not providing foster care; residential facility for persons released from adult correctional institutions; or licensed foster family homes or foster family group homes (*P.A. 116 of 1973, MCL 722.111 to 722.128, as amended*). (*Regulated by the Adult Foster Care Facility Licensing Act, P.A. 218 of 1979*)

## *Bessemer Township Zoning Ordinance*

### **Affordable Housing**

Housing units where the occupant(s) is paying no more than 30 percent of gross household income of low income households (defined to be a household earning less than 80 percent of the median annual income adjusted for household size as determined by the U.S. Department of Housing and Urban Development) for housing costs, including taxes, insurance, and utilities.

### **Agriculture**

Means the production, harvesting, and storage of plants and animals useful to humans, including but not limited to biomass crops, forages and sod crops, grains, feed crops, field crops, dairy and dairy products, poultry and poultry products, livestock including breeding and grazing of cattle, swine, captive deer, and similar animals, berries, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

### **Agriculture, Commercial**

Commercial agricultural activities performed on a farm as defined in the *Michigan Right to Farm Act, P.A. 93 of 1981, as amended*, or on vacant lots or in open spaces in an urban area, or in enclosed, indoor facilities such as greenhouses or aquaculture systems.

### **Agricultural Service Establishment**

Businesses primarily engaged in supplying soil preparation, crop, landscaping, horticultural, farm labor, and management services.

### **Alley**

A public or private right of way shown on a plat which provides secondary access to a lot, block, or parcel of land per the *Land Division Act, P.A. 288 of 1967, MCL 560.102, as amended*.

### **Alteration**

Any change, addition, enlargement, relocation, repair, remodeling, or modification to a structure. Also any change in the structural members of a building, such as walls or partitions, columns, beams or girders. Also any change, addition, or modification to type of occupancy, number of dwelling units, or use of structure or land. The consummated act of alteration may be referred to herein as "altered" or "reconstructed" or "changed".

### **Antenna**

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

### **Apartment**

## *Bessemer Township Zoning Ordinance*

One or more rooms with separate kitchen and bathroom facilities comprising an independent, self-contained dwelling unit not owned in fee simple.

### **Applicant**

A person who submits an application under one of the procedures set forth in this *Ordinance*.

### **Appurtenance**

A right, privilege, or improvement belonging to, incident to, and passing with a principal property upon sale or transfer.

### **Aquaculture**

The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

### **Assisted Living Facilities**

A residential development that provides room and board, assistance with daily activities, and health care for three or more adult residents.

### **Attic**

That part of a building that is immediately below and wholly or partly within the roof framing.

### **Automobile Sales Area**

An area used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

### **Automobile Service Station (same as Gas Station)**

That portion of a property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include automotive repair and maintenance, car wash service, and retail sales.

### **Awning**

A roof-like cover projecting from the exterior wall of a building and composed of non-rigid materials except for the supporting framework which can sometimes be retracted, folded, or collapsed against the face of the supporting building.

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## **SECTION 15.5    DEFINITIONS - B**

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## Bessemer Township Zoning Ordinance

### Basement

That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Figure 15-2). A cellar is a basement. See also definition of “story”. However, any walk-out basement, regardless of average grade, shall be considered a story.

### Bed and Breakfast

A commercial use which is subordinate to the principal use of a building as a single-family dwelling unit, and in which transient guests (transient here defined as lodging for less than thirty consecutive days) are provided a sleeping room in return for compensation. Meals also may be provided.

### Bedroom

A room intended for sleeping. Any room designated on building plan submittals as a den, library, study, loft, or other extra room will be considered to be a bedroom for the purpose of this *Ordinance*.

### Berm

A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity.

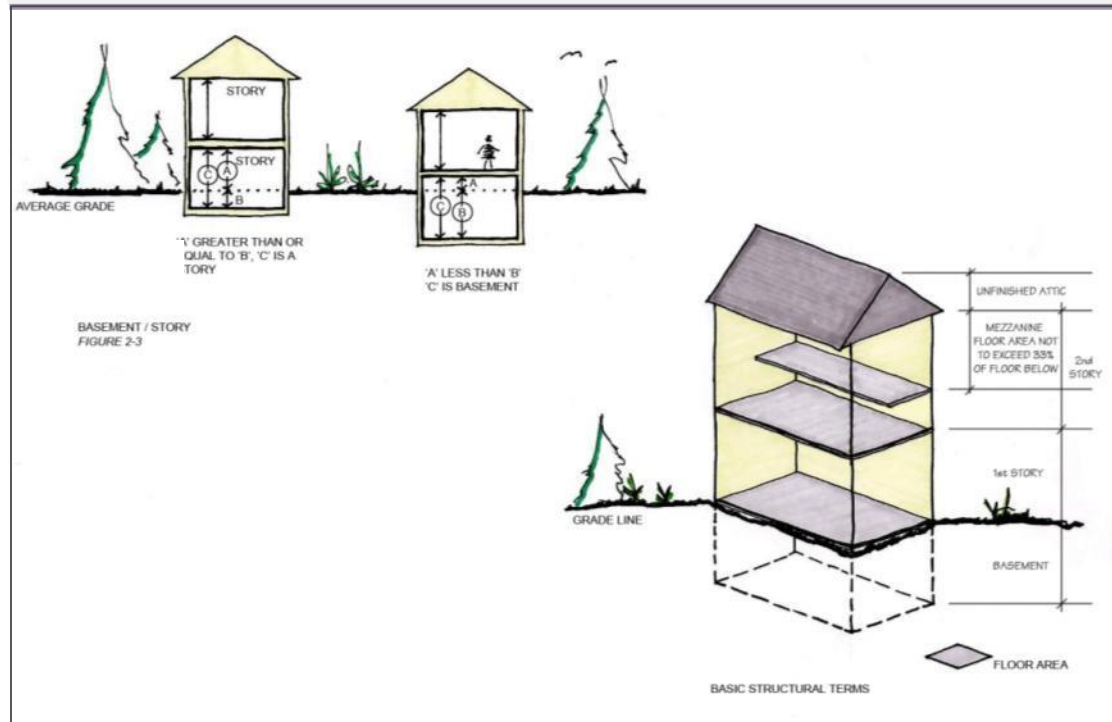
### Billboard

An off-premises sign.

### Biomass

Plant material, used for the production of electricity, heat, fibers, fuel, and chemicals.

Figure 15-2: Basement/Story



## *Bessemer Township Zoning Ordinance*

### **Blighted Area**

A portion of a municipality, developed or undeveloped, improved or unimproved, with business or residential uses, marked by a demonstrated pattern of deterioration in physical, economic, or social conditions, and characterized by such conditions as functional or economic obsolescence of buildings or the area as a whole, physical deterioration of structures, substandard building or facility conditions, improper or inefficient division or arrangement of lots and ownerships and streets and other open spaces, inappropriate mixed character and uses of the structures, deterioration in the condition of public facilities or services, or any other similar characteristics which endanger the health, safety, morals, or general welfare of the municipality, and which may include any buildings or improvements not in themselves obsolescent, and any real property, residential or nonresidential, whether improved or unimproved, the acquisition of which is considered necessary for rehabilitation of the area. It is expressly recognized that blight is observable at different stages of severity, and that moderate blight unremedied creates a strong probability that severe blight will follow. Therefore, the conditions that constitute blight are to be broadly construed to permit a municipality to make an early identification of problems and to take early remedial action to correct a demonstrated pattern of deterioration and to prevent worsening of blight conditions.

### **Blighted Property**

Property that meets any of the following criteria:

- Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- Is an attractive nuisance because of the physical condition or use.
- Is a fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of one year or more so that property is unfit for its intended use.
- Is tax reverted property owned by a municipality, by a county, or by the state. The sale, lease, or transfer of tax reverted property by a municipality, a county, or the state shall not result in the loss to the property of the status as blighted for purposes of the *Blighted Area Rehabilitation Act 344 of 1945 as amended*.
- Is property owned or under the control of a land bank fast track authority under the *Land Bank Fast Track Act, P.A. 258 of 2003, MCL 124.751 to 124.774, as amended*. The sale, lease, or transfer of tax reverted property by a municipality, a county, or the state shall not result in the loss to the property of the status as blighted for purposes of the act.
- Is improved real property that has remained vacant for five consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.
- Any property that has code violations posing a severe and immediate health or safety threat and that has not been substantially rehabilitated within one year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

### **Block**

## *Bessemer Township Zoning Ordinance*

A unit of land bounded by (but not traversed by) streets or by a combination of streets and public land, unsubdivided acreage, corporate boundary lines, railroad rights-of-way, waterways, or any other physical barrier to the continuity of development.

### **Boarding House** (*see also Rooming House*)

A residential structure that provides lodging with or without meals for compensation (pay or any kind) to more than two persons other than members of the family occupying such dwelling, and available for permanent occupancy only.

### **Buffer**

A strip or area of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts.

### **Building** (*see also Structure*)

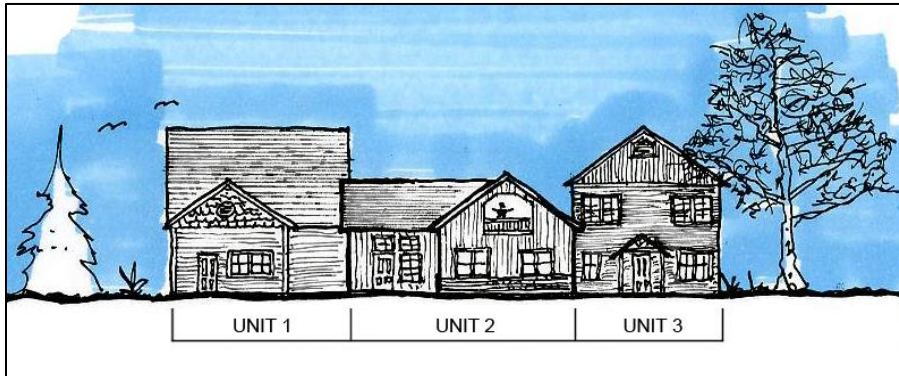
Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, chattels, or property of any kind which shall include vehicles whether mounted or not on wheels and situated on private property and used for the purpose of a building.

### **Building, Abandoned**

A building in which the lawful use has intentionally ceased for any period of time without intention to resume said use, or the voluntary discontinuance of a lawful use for a period of over 24 consecutive months without reference to intent. An intent to resume can be shown through continuous operation of a portion of the facility, maintenance of sewer, water, and other public utilities, or other proof of continuance such as bills of lading, delivery records, etc. This excludes temporary or short-term interruptions to a use for purposes of active remodeling, maintenance, or otherwise improving a facility, or during normal periods of vacation or seasonal closure.



**Building, Accessory** (see *Accessory Building*)



**Building, Detached**

Any structure that does not have a wall or roof in common with another structure. (See *Figure 15-4*)

**Building Footprint**

That portion of a lot covered by buildings or structures as measured on a horizontal plane at the surface level.

**Building Frontage**

The distance between two parallel lines, drawn perpendicular to the edges of the right-of-way, which intersect with any part of a building. Where the building is located upon a curve, the lines shall be drawn perpendicular to a tangent drawn through the nearest point of the right-of-way for a convex curve and the furthest point of the right-of-way for a concave curve.

**Figure 15-4: Attached (above) and Detached Building (below)**

**Building, Attached**

A building which has at least part of a wall in common with another building, or which is connected to another building by a roof. (See *Figure 15-4*)

**Building Code**

Regulations governing the erection and maintenance of buildings as currently enforced pursuant to the laws of the State of Michigan.

**Building, Dangerous** (see *Dangerous Building*)



## Bessemer Township Zoning Ordinance

### Building, Height

The vertical distance between the average grade and the highest point of the roof surface for flat roofs, to the deck line of Mansard roofs; the average height between eaves and ridge for gable, hip and gambrel roofs; and the average height between the lowest point and the highest point on a shed roof. (See Figure 15-5)

### Building, Nonconforming

Any structure, the construction of which was lawfully established prior to the passage of this Ordinance (or any amendments thereto), which for any reason does not meet all of the applicable regulations contained in this Ordinance (or its amendments).

### Building, Principal (see Principal Building)

### Building, Temporary

A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction or as an office until the construction work is complete.

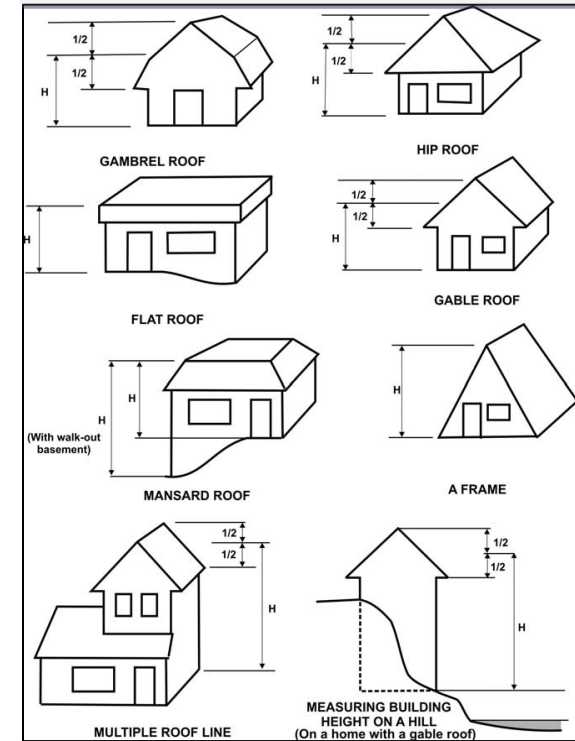
### Building, Vacant

Any building or structure that is not occupied, used, or inhabited on a regular and continuing basis by some person with a valid claim of right to possession or a fee simple title. The intrusion of trespassers or squatters into such buildings on any basis shall not render such building occupied or non-vacant within the meaning of this Ordinance.

### Business Service Establishments

Establishments primarily engaged in rendering services to other business establishments on a fee or contract basis.

Figure 15-5: Building Height



**SECTION 15.6 DEFINITIONS – C**

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**Campground**

Defined per the *Public Health Code P.A. 368 of 1978, MCL 333.12501, as amended* as 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 or more recreational units such as tents, camper trailers, travel trailers, recreational vehicles, motor homes, or temporary sleeping quarters of any kind. A campground does not include a seasonal mobile home park, mobile home park, or manufactured housing community licensed under the *Mobile Home Commission Act, P.A. 96 of 1987, as amended*.

**Canopy**

A permanent roof-like cover, usually of metal, wood, or glass, designed and intended for protection from the weather or as a decorative embellishment, and is free-standing or which projects from a wall or roof of a structure over a window, walkway, door, etc.

**Carpport**

A covered, partially open structure intended to shelter one or more vehicles.

**Child**

A person under 18 years of age.

**Child Care Center (same as Day Care Center)**

Facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Includes the same provisions and exclusions as defined in *P.A. 116 of 1973, MCL 722.111, as amended*.

**Child Care Home, Family (same as Day Care Home, Family or Day Care Home, Private)**

A private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. Does not include an individual providing babysitting services for another individual as defined in *P.A. 116 of 1973, MCL 722.111, as amended*.

**Child Care Home, Group (same as Day Care Home, Group)**

## *Bessemer Township Zoning Ordinance*

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

### **Child Caring Institution**

A child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program shall not be the primary purpose of the facility. Includes a maternity home for the care of unmarried mothers who are minors. Also includes an agency group home that is a small child caring institution owned, leased, or rented by a licensed agency providing care for more than four but less than 13 minor children. Also includes institutions for mentally retarded or emotionally disturbed minor children. Does not include a licensed hospital, nursing home, or home for the aged, a licensed boarding school, a mental health hospital or facility, a licensed adult foster care family home, or a licensed adult foster care small group home as described in *P.A. 116 of 1973, MCL 722.111, as amended*.

### **Children's Therapeutic Group Home**

A child caring institution receiving not more than six minor children who are diagnosed with a developmental disability as defined in section 100a of the mental health code, or a serious emotional disturbance as defined in section 100d of the mental health code *P.A. 258 of 1974, MCL 330.1100, as amended*. Meets all of the following requirements: 1) provides care, maintenance, and supervision, usually on a 24-hour basis, 2) complies with the rules for child caring institutions, except that behavior management rooms, personal restraint, mechanical restraint, or seclusion which is allowed in certain circumstances under licensing rules are prohibited in a children's therapeutic group home, 3) is not a private home, and 4) is not located on a campus with other licensed facilities.

### **Church**

A building wherein persons regularly assemble for religious worship, meetings and other activities, and which is maintained and controlled by a religious body with tax-exempt status organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

## Bessemer Township Zoning Ordinance

### Clear Vision Area

Corner areas at intersecting streets, alleys and driveways in which unobstructed vision of motor vehicle operators is maintained as shown in Figure 15-6. At the intersection of two streets, or where a street intersects with an alley the clear vision triangle is defined by measuring twenty-five (25') feet in length along each street/alley right-of-way line from their point of intersection, the third side being a diagonal line connecting the first two. At the intersection of a driveway and a street, the clear vision triangle is defined by measuring two sides of the triangle each twenty (20') feet in length along the edge of the driveway and along the street right-of-way line and the third side being a diagonal line connecting the first two, and applied to both sides of the driveway. The vertical dimensions of the clear vision triangle include unobstructed areas to be maintained between twenty-four (24) and ninety-six (96) inches above the grade of the lower roadway or driveway.

### Cluster Development

An approach to designing a site that maximizes the conservation of open space by placing dwelling units and other structures in closer proximity than usual while retaining the remaining land for recreation, open space, or preservation of sensitive land features.

### Commercial

Figure 15-6: Clear Vision Area



## Bessemer Township Zoning Ordinance

An occupation, employment, or enterprise that is carried on for profit.

### Communication Tower

A structure including but not limited to monopole, skeleton framework, or other design which is attached directly to the ground or to another structure which supports one or more antennae, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals.

### Community Garden

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

### Composting

Processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.

### Conditional Land Use

A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise) is not essentially incompatible with uses permitted in a zoning district, but which possesses characteristics which require individual review in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. A conditional use is permitted by right in a particular district, provided that the use complies with the nondiscretionary standards stated in this *Ordinance*.

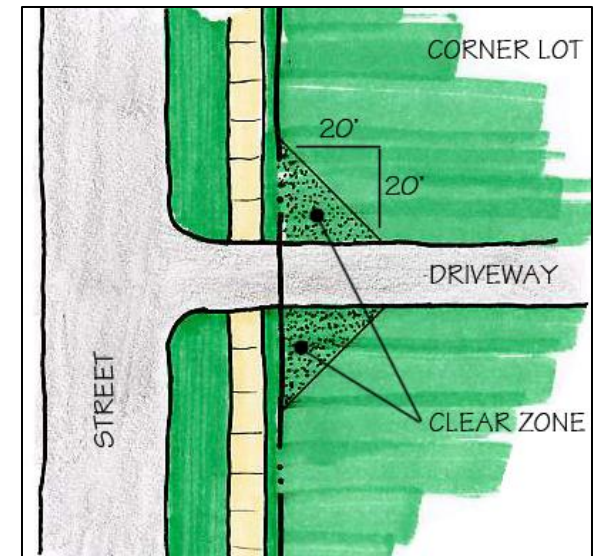
### Condominium Project

A plan or project including not less than two condominium units established and approved in conformance with the *Condominium Act P.A. 59 of 1978, MCL 559.10, as amended*.

### Condominium Subdivision

A division of land on the basis of condominium ownership, pursuant to the *Condominium Act P.A. 59 of 1978, as amended* and which is not subject to the provisions of the *Land Division Act, P.A. 288 of 1967, as amended*. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this *Ordinance*, the terms below are defined as follows:

1. **Building Envelope:** The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed.



## *Bessemer Township Zoning Ordinance*

2. **Building Site:** That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the *Zoning Ordinance* (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."
3. **Condominium Unit:** That portion of a condominium project that is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The term "condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this *Ordinance* pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.
4. **General Common Area:** That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.
5. **Limited Common Area:** That portion of a site condominium project designed and intended for separate ownership, but outside the building setbacks for the zoning district the property is located in, as described in the Master Deed.
6. **Limited Common Element:** That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of the condominium unit.
7. **Master Deed:** The document recorded as part of a condominium subdivision that contains the exhibits and incorporates by reference the approved bylaws for the Condominium Subdivision and Plan.
8. **Plan:** The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

### **Conservation Easement**

The grant of a property right requiring that the described land will remain in its existing natural state in perpetuity. Also means that term as defined in *Section 2140 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended*, when applied to a cluster development or open space development as follows: an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

### **Conservation Subdivision**

## *Bessemer Township Zoning Ordinance*

A housing development where homes are clustered together on smaller lots to preserve the surrounding natural area or open space, while allowing for the maximum number of residences under current zoning regulations. The open space is owned and managed under a conservation easement by the owners of property within the development.

### **Contiguous** *(same as Abutting, Adjacent)*

Next to, touching, having property or district lines in common.

### **Convalescent Home** *(same as Nursing Home and Extended Care Facility)*

A building having a principal purpose of providing of sleeping, eating, and gathering rooms where infirm persons are housed, often for extended periods of time, and furnished with meals and nursing care.

### **Cross Access**

A service road or driveway providing vehicular access between two or more contiguous sites so the driver need not enter the public road system.



**SECTION 15.7 DEFINITIONS – D**

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**Dangerous Building**

An unlawful condition of a building defined as having one or more defects as defined in the *Michigan Housing Law, P.A. 167 of 1917, as amended, MCL 125.53* and as summarized by the following. Conditions relate to non-conformance of ingress and access ways to approved fire codes, compromised structural strength or stability, failure to meet the minimum requirements of the building code, probability of injury due to collapse, settling that compromises wind stability, unsafe or unsanitary conditions, dilapidation or deterioration that is an attractive nuisance, interior that is exposed to the elements or to trespassers, and unoccupied condition for 180 consecutive days without proper notice per the *Michigan Housing Law*.

**Day Care Center (see *Child Care Center*)**

**Deck**

An unroofed structure built as an aboveground platform either freestanding or attached to a building and supported by pillars or posts.

**Deed Restriction**

A private legal restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

**Demolition**

Any dismantling, intentional destruction, or removal of public or private structures, sites, surfaces, utilities, or other improvements.

**District**

A geographic area within the Township within which certain regulations and requirements or various combinations thereof apply uniformly under the provisions of this *Ordinance*. The terms “district” and “zone” are synonymous.

**Division**

The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the *Land Division Act, P.A. 288 of 1967, MCL 560.108 to 560.109, as amended*. Division does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the *Land Division Act, P.A. 288 of 1967, as amended* or the requirements of an applicable local ordinance.

## *Bessemer Township Zoning Ordinance*

### **Dock**

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

### **Drive-Through Establishment**

An establishment that dispenses products or services to patrons who remain in vehicles.

### **Driveway**

A private means of vehicular access connecting a public right-of-way such as a street or alley to a parking or loading area, garage, dwelling, or other structure or area.

### **Driveway, Shared**

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

### **Dwelling, Multiple-Family**

A residential building containing three or more dwelling units, each with not more than one family.

### **Dwelling, Single-Family**

A detached residential building containing only one dwelling unit, and occupied by not more than one family.

### **Dwelling, Two-Family (Duplex)**

A detached residential building containing two dwelling units, each with not more than one family. Also known as a duplex.

### **Dwelling Unit**

One or more rooms connected together but structurally divided from all other rooms in the same structure, constituting a separate, independent housekeeping establishment and containing independent kitchen, bathroom and sleeping facilities.

**SECTION 15.8     DEFINITIONS – E**

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**Earth Material**

Any mineral, rock, natural soil, overburden, or fill, or combination of such materials.

**Earthwork**

The removal of earth materials, clearing of vegetation, mass grading, or re-grading of a site.

**Easement**

That portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on, or above said lot or lots.

**Eave**

The overhanging lower edge of a roof.

**ECHO (Elderly Cottage Housing Opportunity) Housing or ECHO Unit**

A temporary accessory structure and use on a single residential lot for occupancy only by immediate family members of the occupiers of the principal structure on the lot.

**Egress**

An exit.

**Electrical Code**

The electrical code as currently enforced pursuant to the laws of the State of Michigan.

**Environmentally Sensitive Area**

An area with one or more of the following characteristics: slopes in excess of 20 percent; floodplain; soils classified as having a high water table; soils classified as highly erodible, subject to erosion, or highly acidic; land incapable of meeting percolation requirements; land formerly used for landfill operations or hazardous industrial use; fault areas; stream corridor; estuaries; mature stands of vegetation; aquifer recharge and discharge areas; habitat for wildlife; or any other area possessing environmental characteristics similar to those listed herein.

**Erected**

Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for construction. Excavation, fill, drainage, installation of utilities and the like, shall be considered a part of erection.

## *Bessemer Township Zoning Ordinance*

### **Erosion**

The removal of soil through the actions of water, wind, gravity, or a combination.

### **Essential Services**

Means the erection, construction, alteration or maintenance by public utilities or municipal departments, of overhead, surface, or underground gas, electrical, steam, fuel, or water transmission or distribution systems; collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, hydrants, and similar accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare. Does not include communication towers or office buildings, substations, or structures for service equipment or maintenance depots.

### **Expansion** (*same as Addition*)

Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

### **Extractive Industries**

Industries engaged in excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.

**SECTION 15.9     DEFINITIONS – F**

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**Façade**

That portion of an exterior building elevation facing the street space. Building elevations facing interior courts, common lot lines, and alleys are not facades.

**Family**

A basic unit having at its nucleus one or two persons who may be providing care for their children (whether related by blood, marriage, guardianship, duly-authorized custodial relationship, or adoption) and/or elderly parents plus not more than two other persons; or, not more than four unrelated persons living together as a single housekeeping unit.

**Farm**

The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products, per the *Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.*

**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 as outlined in the *Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.*

**Farm Product**

Those plants and animals useful to human being produced by agriculture and includes, but is not limited to, biomass crops, forages and sod crops, grains, feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, trees and tree products, mushrooms, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture. Per the *Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.*

**Farm Stand (same as Food Stand)**

A building or structure used for the retail sales of agricultural produce.

**Farmer's Market**

An occasional or periodic market held in an open area or in a structure where individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages.

## *Bessemer Township Zoning Ordinance*

### **Fence**

A structure of definite height and location to serve as an enclosure in carrying out the requirements of this *Ordinance*; a barrier designed to bound an area.

### **Fence, Height**

The average distance between the top element in the fence and the adjacent grade along any unbroken run of fence.

### **Fence, Living**

A grouping of plants including, but not limited to hedges, shrubs, bushes, or trees, arranged and/or growing in such a manner as to enclose, secure, partially enclose or secure, provide privacy, or mark a boundary for all or any part of a lot.

### **Fence, Privacy**

A solid fence erected or constructed to prevent views across the fence line.

### **Fill**

Any material, including by way of illustration earth material, concrete, rubble, and wood waste, that is placed or deposited on the surface of the ground resulting in a change in natural surface elevation.

### **Flag**

A flexible piece of fabric or other material used as a symbol of a unit of government or political subdivision.

### **Floodplain**

A relatively flat or low land area adjoining a river, stream, lake, or watercourse which is subject to partial or complete inundation; or, an area subject to the unusual and rapid accumulation of runoff or surface waters from any source. This area includes floodway (channel and flood areas with flow), and flood fringe (flood areas with little or no flow).

### **Floor**

The level base of the room, hollow structure, or enclosed area, including basements.

### **Floor Area**

The sum of the total gross area of all floors as measured to the outside surfaces of exterior walls.

### **Food and Drink Establishments**

An establishment where food and drink are prepared, served, and consumed primarily on the premises.

## *Bessemer Township Zoning Ordinance*

### **Footcandle**

A measure of illumination on a surface that is one foot from a uniform source of light of one candle and equal to one lumen per square foot.

### **Foster Care**

The provision of supervision, personal care, and protection in addition to room and board for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

### **Foster Family Home**

A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the adoption code, *chapter X of P.A. 288 of 1939, MCL 710.21 to 710.70, as amended*, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian. *Per P.A. 116 of 1973, MCL 722.1, as amended.*

### **Foster Family Group Home**

A private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to *chapter X of P.A. 288 of 1939, MCL 710.21 to 710.70, as amended*, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian. *Per P.A. 116 of 1973, MCL 722.11, as amended.*

### **Fraternity or Sorority House**

A building occupied and maintained exclusively for students affiliated with and formally recognized as a group by an academic or professional college or university or other recognized institution of higher learning.

### **Frontage** *(as pertains to sign regulation)*

A property line shall be said to be a property frontage whenever it is coterminous with the boundary of a public right-of-way.

### **Frontage Road** *(same as Front Service Drive)*

A local street/road or private road typically located in front of principal buildings and parallel to an arterial to give access to abutting properties for the purpose of controlling access to the arterial.

**SECTION 15.10 DEFINITIONS – G**

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**Garage Entry**

An opening (with curb cut) in the building façade and/or street wall where vehicles may access the block interior for parking and business servicing.

**Garage, Private**

An accessory building or portion of the principal building used for storage by the occupant of the principal building, with no facilities for mechanical service or repair of a commercial or public nature.

**Garage, Repair**

Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, storage, or refinishing of motor vehicles is conducted.

**Garage Sale (*same as Yard Sale*)**

The sale or offering for sale to the general public of items of personal property by the owner or tenant of a lot on which a dwelling unit is located, whether within or outside the dwelling unit, a garage or other accessory building.

**Garden**

A tract of land devoted to outdoor cultivation of flowers, fruits, vegetables, or small plants, and unenclosed by any structure other than a fence.

**Gas Station (*see Automobile Service Station*)**

**Generally Accepted Agricultural and Management Practices (GAAMP)**

Those practices as defined by the Michigan Commission of Agriculture.

**Glare**

The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.



## Bessemer Township Zoning Ordinance

### Grade

The vertical elevation of the ground surface.

### Grade, Average

The arithmetic average of the lowest and highest grade elevations in an area within five feet of the foundation line of a building or structure not including window wells or required basement egress. (See Figure 15-8)

### Grade, Finished

The final grade of the site after man-made alterations that conforms to the approved plan.

### Grade, Natural or Existing

The elevation of the ground surface in its natural state, before man-made alterations.

### Greenhouse (same as Hoop House)

A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other tender plants.

### Greenway

A contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. *Per P.A. 110 of 2006, MCL 125.3102, as amended.*

### Ground Cover

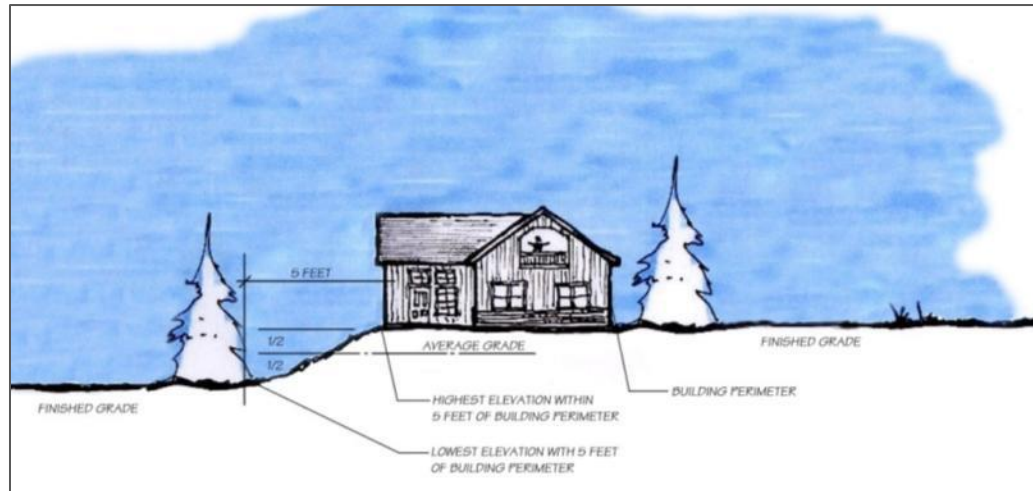
Living plants designed to grow low to the ground (generally one foot or less), forming a continuous vegetative surface, and intended to stabilize soils and protect against erosion.

### Ground Story

The first level of a building at or above grade.

### Group Residential Facility

Figure 15-8: Grade



## *Bessemer Township Zoning Ordinance*

The use of a site for occupancy by groups of people not defined as a family, and who are not mentally ill or developmentally disabled, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding/lodging houses, convents, and monasteries.

**SECTION 15.11 DEFINITIONS – H**

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**Hard Surface**

Compacted gravel, concrete or asphalt pavement, pavers or other products designed for parking.

**Hazardous Substance**

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to the public health, safety, or welfare or to the environment. Includes "*Hazardous substance*" as defined in the *Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Public Law 96-510, 94 Stat. 2767*, and "*Hazardous waste*" as defined in the *Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.11103*, and "*Petroleum*" as defined in the *Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.21303(d)(ii)*.

**Height, Building (see *Building, Height*)**

**Height, Sign (see *Sign, Height*)**

**Height, Eave (see *Eave Height*)**

**Home for the Aged**

Provides 24 hour room, board, and supervised personal care to 21 or more unrelated, non-transient individuals 60 years of age or older, or a home with 20 or fewer individuals 60 years of age or older that is operated in conjunction with and as a distinct part of a licensed nursing home.

**Home Occupation**

A commercial activity, whether for profit or otherwise, carried on by an occupant of a dwelling unit as a secondary use which is clearly subordinate and incidental to the use of the dwelling unit as a residence, and does not alter the exterior of the property or affect the residential character of the neighborhood.

**Hospital**

An institution providing health services for inpatient and/or outpatient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, outpatient departments, central staff service facilities, and staff offices which are an integral part of the institution.

## *Bessemer Township Zoning Ordinance*

### **Hotel**

A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a boarding or rooming house as defined in this *Ordinance*.

**SECTION 15.12 DEFINITIONS - I**

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**Impervious Surface**

Any surface which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation-bearing soils, including building roofs, paved asphalt or concrete surfaces, and dense gravel surfaces.

**Impervious Surface Coverage**

A measure of intensity of land use that represents the portion of a site that is impervious. This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, concrete, asphalt, or other hard surface.

**Independent Living Facility**

Rental units limited to occupancy by elderly persons and/or persons with disabilities in which personal services or health services are not included as part of the rent, though they may be available on site and may be purchased by residents for an additional fee.

**Industrial Park**

A coordinated development for a variety of industrial and related uses, developed or controlled by one proprietary interest with an enforceable master plan and/or covenants, conditions, and restrictions.

**Industrial Service Establishment**

Establishment engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products, generally not attracting the general public.

**Industry**

The manufacture, fabrication, processing, assembly, reduction, or destruction of any article, substance, or commodity in such a manner as to change the form, character, or appearance thereof, and may include associated warehousing and/or storage facilities.

**Industry, Heavy**

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions with significant external effects.

**Industry, Light**

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing or the presence of hazardous or nuisance materials.

## *Bessemer Township Zoning Ordinance*

### **Ingress**

Access or entry point or entrance.

### **Institution**

A building or premises occupied by a nonprofit corporation or a nonprofit establishment for public use.

### **Intersection**

The location where two or more roadways cross at grade without a bridge.

**SECTION 15.13 DEFINITIONS - J**

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**Junk**

Any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes including garbage and discarded appliances, and yard debris, which is collected, stored for salvage, destruction, or conversion to some use.

**Junk Yard**

Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, dismantling, disassembly, dumping, display, resale, exchange, bailing, cleaning, handling or disposal of junk or other salvaged materials but excluding such uses when conducted entirely within a completely enclosed building or when used as part of manufacturing operations.

**SECTION 15.14 DEFINITIONS - K**

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**Kennel**

Any premises where domestic animals, such as dogs and cats, are confined, boarded, trained, treated, or groomed for compensation or bred or raised for sale purposes.

**SECTION 15.15 DEFINITIONS – L**

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**Landscaping**

An area set aside from structures and parking which is characterized by the installation and permanent maintenance of vegetation and natural features. It includes the preservation of existing vegetation and the continued maintenance thereof and the installation of minor decorative features such as permeable paving materials, walls, fences, and street furniture.

**Live/Work Space**

Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

**Loading Zone**

An off-street area on the same lot with a building, or group of buildings, for temporary access and parking of a commercial vehicle while loading and unloading merchandise or materials.

**Lot (same as Parcel)**

Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this *Ordinance*, and having its principal frontage upon a public street or on an approved private road or approved access easement.

**Lot, Corner**

A platted parcel of land abutting two road rights-of-way at their intersection, or a lot abutting upon a curved street or streets involving a change of direction. (See *Figure 15-11*)

**Lot, Depth**

The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. (See *Figure 15-9*)



## Bessemer Township Zoning Ordinance

### Lot, Flag

A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. (See Figures 15-10 and 10-11)

### Lot, Interior

Any lot other than a corner lot which has only one lot line fronting on a street. For this purpose, an alley is not considered a street unless the lot has no lot line fronting on a street. (See Figure 15-11)

### Lot Lines, Common

Lot lines shared by adjacent private lots.

### Lot Lines, Front

In the case of an interior lot, the line separating that lot from the street, a private road, or other access easement. In the case of a corner lot or through lot, the line separating that lot from either the street, a private road, or other access easement, and bearing the assigned street address for that lot. In the case of a flag lot, the line parallel and nearest to the main roadway. (See Figures 15-9 and 15-10)

### Lot Lines, Rear

The line opposite the front lot line. In the case of a corner lot or through lot, the line which is opposite the street address. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. (See Figures 15-9 and 15-10)

### Lot Lines, Side

Any lot line other than the front lot line or rear lot line. (See Figures 15-9 and 15-10)

### Lot of Record

A lot which is part of a plat or a lot or parcel described by metes and bounds recorded in the Office of the County Register of Deeds at the time of adoption of this *Ordinance*.

Figure 15-9: Lot Frontage, Width & Depth



# Bessemer Township Zoning Ordinance

## Lot, Through

An interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. All sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. (See Figure 15-11)

## Lot Width

The horizontal distance between the side lot lines, measured at the front setback, or if no front setback is established, the distance between the side lot lines measured along the lot line abutting a named or numbered street. For corner lots having only one side lot line, the distance shall be measured from that side lot line to the opposing front lot line. (See Figure 15-10)

## Lumen

A unit used to measure the actual amount of light that is produced by a bulb, which quantifies the amount of light energy produced by a lamp at the lamp.

Figure 15-10: Lot Line & Yards

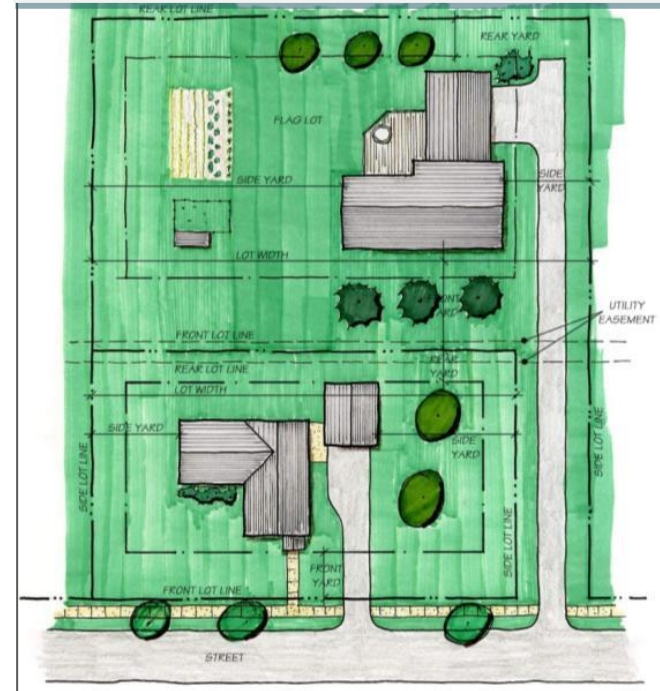


Figure 15-11: Lot Types



**SECTION 15.16 DEFINITIONS – M**

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**Major Street**

Any street designated as a major street pursuant to *P.A. 51 of 1951*.

**Mansard Roof**

A roof, or structure on a building imitating a roof, which is at an angle of 60 degrees or greater from the horizontal.

**Manufactured Home**

Factory-built, single-family dwelling units prefabricated in part or total which meet the *HUD Code 42 USC Sec 5401 (Federal Manufactured Home Construction and Safety Standards Act)*, and is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

**Manufactured Housing Community**

A private community of single family homes on individual lots owned by the owner of the manufactured home that resides upon it, that are built in accordance with the *Federal Manufactured Home Construction and Safety Standards Act*, and transported, sited and installed in compliance with the act and state requirements in the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302*.

**Master Plan**

A compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development, both public and private, of the community, and complying with the standards of the *Michigan Planning Enabling Act, P.A. 33 of 2008*.

**Median**

The portion of a divided roadway or divided entrance separating the traveled ways from opposing traffic. Medians may be depressed, painted or raised with a physical barrier or may be landscaped.

**Minor Street**

Any street designated as a minor street pursuant to *P.A. 51 of 1951*.

**Mixed Use Development**

The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, vertically or horizontally integrated, and sharing a common circulation system including both vehicular and pedestrian ways and possibly a system of common open spaces including recreational and natural areas.

## *Bessemer Township Zoning Ordinance*

### **Mobile Home**

Per the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302*, a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

### **Mobile Home Park**

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, or as otherwise defined in the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended*.

### **Mobile Home Park, Seasonal**

Per the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended*, a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Seasonal mobile home park does not include a campground licensed pursuant to the *Public Health Code, P.A. 368 of 1978, MCL 333.12501 to 333.12516, as amended*.

### **Motel**

A series of rental units, each containing at least a bedroom and bathroom, provided for compensation to transient guests for overnight lodging, and in which access to and from each room or unit is through an exterior door.

### **Mural**

A graphic displayed on the exterior of a building or structure generally for purposes of decoration or artistic expression, and not containing any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, or business, or any logo.

**SECTION 15.17 DEFINITIONS – N**

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**Native Species**

Plant and animal species that occur naturally in aquatic and terrestrial habitats.

**Natural Areas**

Land or water that is essentially unimproved and characterized by natural features, and devoted to open space or habitat use.

**Neighborhood**

A subarea of the Township in which the residents share a common identity focused around a school, park, community business center, or other feature which is usually within walking distance of their homes, or which is bounded by physical barriers or natural features that distinguish it from other areas of the community.

**Non-Conforming**

A condition that occurs when an existing lot, structure, building, sign, development, or use of an existing lot or structure fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, sign, development, or use is located, but which was conforming (“of record”) prior to the enactment of this *Ordinance* and became non-conforming on the effective date of adoption of this *Ordinance*, or an *Ordinance* text amendment or rezoning,

**Nuisance**

Any thing, condition, or conduct that annoys, injures, or endangers the safety, health, comfort, or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance.

**Nursing Home** (*same as Convalescent Home and Extended Care Facility*)

A building having a principal purpose of providing sleeping, eating, and gathering rooms where infirm persons are housed, often for extended periods of time, and furnished with meals and full-time nursing care.

**SECTION 15.18 DEFINITIONS – O**

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**Occupancy**

The purpose for which a building is used or intended to be used. Change of occupancy is not intended to include change of tenants or proprietors.

**Occupants, Capacity**

Maximum number of persons who may occupy a structure as determined by the Township Fire Chief, as authorized by state or local statute.

**Office**

A building or portion of a building wherein services are performed including, predominantly administrative, professional, or clerical operations.

**Off-Site**

Outside the limits of the area encompassed by the lot or parcel of record on which the principal use is conducted.

**On-Site**

Within the limits of the area encompassed by the lot or parcel or record on which the principal use is conducted.

**Opacity**

The degree to which materials or objects block light or view; the degree of nontransparency.

**Open Space**

Any unoccupied, at-grade area open to the sky and not covered by structures or devoted to vehicular use 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 or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

**Open Space Preservation**

A condition where land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the *Zoning Ordinance*, and as long as a percentage of the land area will remain perpetually in an undeveloped state, and meeting certain conditions as defined in this *Ordinance*.

**Outdoor Sales**

The outdoor display and sales of goods or services in parking areas, sidewalks, and other locations outside of an enclosed building (does not apply to farmer's markets, produce stands, or yard sales as defined in this *Ordinance*).

## *Bessemer Township Zoning Ordinance*

### **Outdoor Storage**

Keeping of personal or business property in an area outside of a building (does not apply to junk/salvage operations and yards or auto recycling centers as defined in this *Ordinance*).

### **Overlay District** (*same as Overlay Zone*)

A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

### **Owner**

An individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity who owns or holds title to real property; a mortgagee or vendee in possession; an assignee of rents; one who has control as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner.

**SECTION 15.19 DEFINITIONS – P**

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**Parapet**

The extension of the main walls of a building above the roof line.

**Parcel (same as Lot)**

Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this *Ordinance*, and having its principal frontage upon a public street or on an approved private road or approved access easement.

**Park**

Land that is publicly owned or controlled for the purpose of providing recreation or open space for public use.

**Parking Lot**

A ground level area, other than a street or other public way, improved for the temporary storage of motor vehicles, and available for public or private use whether for a fee or as an accommodation for clients, customers, residents, or employees. Improvements may include hard surface, pavement (impervious or permeable), or other approved, permeable, reinforced system.

**Parking, Off-Street**

The storage space for a motor vehicle on premises other than streets.

**Parking, On-Street**

The storage space for a motor vehicle that is located within the street right-of-way.

**Parking, Reserved**

Parking not available to the public, but only to specifically identified users (either a single user per space or a set of users for a group of spaces), whether for free or at a fee.

**Parking, Shared**

The approved use of a public or private parking area jointly by two or more uses.

**Parking Space**

An area of definite length and width, exclusive of driveways and aisles giving access thereto, and so prepared as to be usable for the parking of permitted vehicles and so located as to be readily accessible to a public street or alley.



## *Bessemer Township Zoning Ordinance*

### **Parking Structure**

A structure, whether privately or publicly owned, fully or partially enclosed or located on the deck surface of a building, designed to accommodate vehicular parking spaces and access drives, aisles, and ramps. A separate structure that is accessory to a residential use is a garage and is not included as structured parking.

### **Parkway**

The area of the right-of-way, excluding the sidewalk (if any), between the property line and the rear of the curb, or in the absence of a curb, between the property line and the nearest edge of the street paving, usually reserved for landscaping.

### **Path**

A right-of-way or easement dedicated for non-motorized public pedestrian access.

### **Path, Multi-Use**

An off-street path physically separated from motorized vehicular traffic by an open space or barrier and that can be used by several transportation modes, including bicycles, pedestrians, and other non-motorized modes. Multi-use paths accommodate two-way travel.

### **Pavement**

A uniform, hard, and durable material composed of concrete or asphalt.

### **Pavement, Permeable**

A pavement system with traditional strength characteristics, but which is permeable. Includes porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and pinned or interlocked in place that may incorporate grass or other landscaped surfaces.

### **Pedestrian Oriented Development**

Development which places primary emphasis on the circulation of pedestrians rather than auto access and parking areas, but does accommodate multi-modal transportation systems. Buildings are generally placed close to the street with the main entrance oriented to the street sidewalk, with parking to the side or rear of a building. The development incorporates a variety of mixed-uses to encourage pedestrian activities and includes pedestrian-oriented amenities and landscaping to encourage public gathering. Does not include non-buffered parking lots, chain-link fences, or adjacent blank walks without blank wall treatment.

### **Pedestrian Pathway**

A public right-of-way or public access easement, separate and protected from vehicular traffic, developed according to standards specified in this *Ordinance*, that provides pedestrian and bicycle passage through blocks running from a street-space to a building entrance, another street-space, an alley, or through a block interior parking area.

## *Bessemer Township Zoning Ordinance*

### **Performance Guarantee**

Cash, completion bond, certified check, irrevocable bank letter of credit or other financial security acceptable to the municipality as assurance that required improvements or conditions associated with project approval are properly built and brought to completion or conformance.

### **Permanent Structure**

Any building, structure, or utility/waste system designed, constructed, and intended for more than short-term use. Excluded are recreational vehicles, picnicking shelters, moveable storage sheds, stairways, docks, or erosion control structures.

### **Permeable** (*same as Pervious*)

Surface maintained in its natural condition or covered by a material that permits infiltration or percolation of storm water directly into the ground at the rate of absorption of vegetation-bearing soils.

### **Person**

Any individual, partnership, corporation, joint stock association, organization, association, trust, or any Township or state or any subdivision thereof; and includes any trustee, receiver, assignee, heir, executor, administrator, agent, or personal representative thereof.

### **Planned Unit Development (PUD)**

A development of flexible design that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages according to the PUD requirements of this *Ordinance*, other applicable sections of this *Ordinance* and any additional requirements placed upon it by the Planning Commission. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements but meets the goals and criteria of the Planned Unit Development as stated in this *Ordinance* and as illustrated through the discretionary review process. A PUD shall not be allowed where approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives.

### **Plat**

A map of a subdivision of land recorded with the County Register of Deeds pursuant to the *Land Division Act, P.A. 288 of 1967, MCL 560.102, as amended*, or a prior statute.

### **Porch**

A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air conditioned and when the percentage of window area to wall area is less than fifty (50) percent.

## *Bessemer Township Zoning Ordinance*

### **Practical Difficulty**

The circumstances that may prevent a property owner from conforming with the strict letter of the *Ordinance* and from which a dimensional variance may be granted; provided that doing so will not be contrary with the intent and purpose of the *Ordinance*, will not cause a substantially adverse effect upon adjacent properties, will not essentially alter the character of the surrounding area, will not increase hazards or traffic congestion, and provided, however, that the plight of the owner is due to unique circumstances of the property and is not self-created.

### **Premises**

A lot, parcel, tract or plot of land together with the buildings and structures thereon.

### **Principal Building**

A building in which is conducted the primary or predominant use of the lot on which it is located.

### **Principal Use**

The primary or predominant use of any lot, building, or structure.

### **Private**

Belonging to, or restricted for the use or enjoyment of particular persons.

### **Professional Engineer**

An engineer registered in the State of Michigan.

### **Projection**

A portion of the main building that projects from the wall or established foundation line, such as overhanging eaves, bay windows, balconies, etc.

### **Property**

A lot, parcel, tract, or plot of land together with the buildings and structures thereon that is owned or possessed.

### **Public**

The people as a whole; belonging or open to members of the community; anything owned or operated by government.

### **Public Art**

Any visual device, element, or feature whose primary purpose is the expression of aesthetic qualities or ideas, accessible to public view on public or private property, but which does not contain characteristics of an advertising sign and does not draw attention to a business, profession, industry, products, or services.

## *Bessemer Township Zoning Ordinance*

### **Public Facility**

Land and structures providing public services, including, but not limited to transportation, water, wastewater, stormwater, fire, police, emergency, utility, and communication systems or other publically owned uses such as government offices, schools, libraries, museums, tourist information centers, marinas, and trails.

### **Public Space**

Open space or improved land and facilities commonly open to view by the public or accessible to the public.

### **Public Use**

Government-owned facilities to which the public has access.

### **Public Utility**

Any person, firm or corporation, municipal department, board, or commission duly authorized to furnish and furnishing under Federal, State, or Municipal regulation to the public gas, steam, electricity, sewage disposal, communication, transportation, or water services.

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## **SECTION 15.20 DEFINITIONS - Q**

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## **SECTION 15.21 DEFINITIONS - R**

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### **Ramp**

A sloping walkway, roadway, or passage used to join and provide a smooth transition between two levels of different elevation, including between land and water at a boat launching site or between structures and the ground for handicap access to buildings.

### **Rear Service Drive**

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

### **Recreation and Entertainment Establishments, Indoor**

Commercial business establishments whose principal purpose is to provide the general public with activities or services involving forms of play, amusement, or relaxation entirely within a building in exchange for a fee.

### **Recreation and Entertainment Establishments, Outdoor**

## *Bessemer Township Zoning Ordinance*

Commercial business establishments whose principal purpose is to provide the general public with activities or services involving forms of play, amusement, or relaxation conducted almost wholly outdoors in exchange for a fee. May include open, partially enclosed, or screened facilities.

### **Recreational Structure**

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

### **Recreational Vehicle**

A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle per the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended*.

### **Repair**

The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

### **Repair Services Establishments**

Businesses that service or repair appliances, electrical equipment, or other mechanical equipment or consumer goods to individuals and households. Does not include repair of motor vehicles.

### **Residential**

Activities in which occupants regularly use land as a permanent place for dwelling. Residential uses shall be considered to encompass all of the following: Dwelling Units (single family, two family, multiple family, mobile or manufactured home on an individual lot), Bed and Breakfasts, ECHO unit, Family Child Care Homes, Group Child Care Homes, Adult Foster Care Family Home, Adult Foster Care Small and Large Group Homes, Foster Family Home, Foster Family Group Home, State Licensed Residential Facility, Institutions for Human Care and Habitation, Community Residential Care Facilities, Group Housing, Mobile Home Park or Manufactured Housing Community, PUD with dwelling units, Resorts with Dwelling Units, Open Space or Rural Cluster Development as defined in this *Ordinance*.

### **Resort**

A place of typically seasonal entertainment, recreation and/or lodging. Resort lodging, if provided, may include hotels, motels, single or multiple-family residential dwelling units, cottages, campgrounds, bed and breakfasts, or some combination, as regulated by appropriate sections of this *Ordinance*.

## *Bessemer Township Zoning Ordinance*

### **Restaurant**

A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building, but may also include carry-out services for consumption off premises.

### **Restaurant, Drive In**

A commercial establishment where food and beverages are served to the public for consumption on the premises by order from and service to vehicular passengers outside the building.

### **Restaurant, Drive Thru**

A commercial establishment where food and beverages are served to the public via direct service to vehicular passengers for consumption off premises, even if the premises also include areas where food and beverages are prepared, served, and consumed within the principal building or to vehicular passengers for consumption on premises.

### **Restoration**

The reconstruction or replication of an existing building's original architectural features.

### **Restrictive Covenant**

A restriction on the use of land set forth in a formal binding agreement. Restrictive covenants run with the land and are binding on subsequent owners of the property.

### **Retail Establishments**

An establishment whose principal activity is the purchase and resale, leasing, or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering of services incidental to the sale of such goods.

### **Retention**

The permanent on-site maintenance of stormwater.

### **Right-of-Way**

A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries, and is dedicated or deeded to the public for public use and under the control of a public agency.

### **Riparian Buffer**

A vegetated buffer strip along a watercourse that filters stormwater and provides wildlife habitat.

## *Bessemer Township Zoning Ordinance*

### **Road**

All property dedicated or intended for public or private vehicular travel, including parking lanes and utility easements that are located in the area between the regularly established curb lines.

### **Road, Private**

A private way or means of vehicular access to two or more abutting lots which is constructed and maintained by the owner or owners and is not dedicated for general public use.

### **Road, Public**

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

### **Roadside (Food) Stand**

An accessory structure for the seasonal retail sale of agricultural products.

### **Roof**

The top cover of any building or structure, including the eaves and similar projections but excluding chimneys, antennas, vents, solar collectors, mechanical equipment, and similar structures.

### **Rooming House (see also *Boarding House*)**

A building where sleeping accommodations are available for remuneration for periods of one week or longer. Board may or may not be included with the accommodations.

### **Runoff**

Water that flows at a rate above the infiltration rate of the surface material which causes water to flow over the ground surface.

**SECTION 15.22 DEFINITIONS – S**

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**Salvage**

Any article or material that is to be or intended to be reclaimed or saved from destruction.

**Salvage Yard**

Any lot or parcel, or part thereof, including automobile graveyards, auto recycling centers, automobile wrecking yards, where any salvage materials, including a salvage vehicle or parts thereof, are located or stored for the purposes of resale, exchange, handling, or processing as parts or parts as salvage only.

**Sauna**

An accessory structure or room utilizing a steam bath or dry heat used for the purpose of bathing, relaxation, or reducing.

**Sawmill**

A facility where logs or partially processed trees are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

**Screen/Screening**

A structure or vegetative barrier meeting the buffer requirements of this *Ordinance* that provides a visual or noise barrier between the area enclosed and the adjacent property.

**Self-Service Storage Facility**

A building or groups of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses and used for the storing of household and personal property with no commercial transactions permitted other than the rental of the storage units.

**Service**

A useful labor which does not produce a tangible commodity.

**Service Drive (see *Frontage Road* or *Rear Service Drive*)**

**Service Establishment**

Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

**Setback**



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The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

### **Setback Line**

A line parallel to and equidistant from the relevant lot line (front, back, and side) between which no buildings or structures may be erected as prescribed in this *Ordinance*.

### **Setback, Shoreland**

The minimum horizontal distance between a structure and the ordinary high water mark.

### **Sexually Oriented Businesses (SOB)**

Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character. SOBs include but are not limited to adult book or video store, adult entertainment establishment, adult mini-theater, adult motion picture theater, and adult novelty business as defined below.

- **Adult Book or Video Store:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "*specified sexual activities*" or "*specified anatomical areas*," as defined herein.
- **Adult Entertainment Establishment:** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of "*nudity*" or live performances presented for the observations of the patrons which have paid or promised to pay an admission fee, and which are characterized by the exposure of "*specified anatomical areas*" or by "*specified sexual activities*".
- **Adult Mini-Theater:** A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "*specified sexual activities*" or "*specified anatomical areas*".
- **Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "*specified sexual activities*" or "*specified anatomical areas*," as defined herein.
- **Adult Novelty Business:** A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- **Nudity or State of Nudity:** The appearance or display of specified anatomical areas as defined below.
- **Specified Anatomical Areas** Includes:
  - Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
  - Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- **Specified Sexual Activities** Includes:

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- Acts of human masturbation, sexual intercourse, or sodomy;
- Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- Human genitals in a state of sexual stimulation or arousal.
- **Substantial or Significant Portion:** A SOB will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:
  - Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical areas, or both.
  - Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both.
  - The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

### **Shopping Center**

A group of five or more separate commercial establishments with separate customer access which is planned, constructed, and managed as a unified entity fronting on privately owned common areas or shared on-site parking rather than a public street.

### **Shoreland**

The land within a specified distance of the ordinary high-water mark of a water body, lake, river, or stream.

### **Shoreline**

The area of the shoreland where land and water meet.

### **Sidewalk Café**

An outdoor dining area on a public sidewalk or right of way where patrons consume food and beverages provided by an abutting food service establishment. Such establishments include either table service in the outdoor area or takeout items to be consumed there.

### **Sidewalk Sale**

Outdoor display and sale, conducted by the proprietor, of products normally sold inside a retail establishment.

### **Sidewalk Vendor**

Any person engaged in the selling, or offering for sale, of food, beverages, merchandise, or services for immediate delivery from a vendor stand or from his or her person that is not located in, or in association with, a building.

### **Sight Distance**

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

### **Sign**

Any name, figure, character, image, outline, display, announcement, or illustration which is affixed to or located on, a piece of land, and which is designed to attract public attention from any street, right-of-way, sidewalk, alley, park, or other public property and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. Customary displays of merchandise or objects and material placed behind a store window are not signs or parts of signs. A sign shall not include any architectural or landscape features that may also attract attention.

### **Sign, Abandoned**

A sign which for a period of at least ninety (90) consecutive days or more no longer advertises or identifies a legal business establishment, product, or activity.

### **Sign, Advertising**

Any sign which identifies a product, or service or brand name offered to the public.

### **Sign, Alteration**

Any change in copy color, size, or shape, which changes the appearance of a sign, or a change in position, location, construction, or supporting structure of a sign, except that a copy content change on a sign is not an alteration.

### **Sign, Animated**

A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance.

### **Sign, Area**

Refer to measurement standards in Section 5.7.4.

### **Sign, Balloon**

A lighter-than-air, gas-filled balloon, tethered in a fixed location, that has a sign with message on its surface or attached in any manner to the balloon.

### **Sign, Banner**

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A temporary, lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constructed on non-durable materials, including, but not limited to, cardboard, cloth, and/or plastic.

### **Sign, Billboard**

An off-premises sign owned by a person, corporation, or the entity that engages in the business of selling the advertising space on that sign and is subject to regulation under the *Highway Advertising Act, Public Act 106 of 1972*.

### **Sign, Building Identification**

Any sign containing the name or address of a building and may include hours of operation and emergency information, such sign being located on the same site as the structure.

### **Sign, Canopy**

Any permanent sign attached to or constructed underneath a canopy.

### **Sign, Changeable Copy**

A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units), or manually through placement of letters or symbols on a panel mounted in or on a track system.

### **Sign, Commemorative Plaque**

An inscribed tablet of brass or other non-corrosive metal or stone identifying a place of historical or cultural significance.

### **Sign, Construction Site**

A nonpermanent sign identifying the persons, firms, or business directly connected with a construction project.

### **Sign, Directional**

A permanent instructional sign located on private property at or near the public right-of-way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified uses on the property.

### **Sign, Electronic Message Centers**

A sign or portion thereof on which the copy or symbols change automatically through electrical or electronic means (such as time and temperature units).

### **Sign, Entrance**

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A sign that designates the street entrance way to a residential or industrial subdivision, apartment complex, condominium development, or permitted institution from a public right-of-way.

### **Sign Face**

An exterior display surface of a sign including nonstructural trim exclusive of the supporting structure.

### **Sign, Flag**

A flexible piece of fabric or other material used as a sign that is not a symbol of a unit of government or political subdivision.

### **Sign, Freestanding**

Any sign which is permanently affixed in or upon the ground, supported by one or more structural members, with air space between the ground and the sign face.

### **Sign, Flexible**

A sign made of fabric, plastic, or other flexible material, two-dimensional in nature.

### **Sign, Frontage**

For purposes of sign regulation, the frontage of any building or site shall include the elevation(s) facing a public street or primary parking area or containing the public entrance(s) to the building or building units. For multi-tenant buildings, the portion of such building that is owned or leased by a single tenant shall be considered a building unit.

### **Sign, Frontage Primary**

The portion of any frontage (as defined in “Sign, Frontage”) containing the primary public entrance to the building or building units.

### **Sign, Frontage Secondary**

Frontages (as defined in “Sign, Frontage”) containing secondary public entrances to the building or building units, and all walls facing a public street or primary parking area not designated as the primary frontage.

### **Sign, Governmental**

A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance, or other governmental regulation.

### **Sign, Grade**

The level of the site at the property line located at the closest distance to the sign.

### **Sign, Height**

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Refer to measurement standards in Section 5.7.4.

### **Sign, Holiday Decorations**

Signs or displays including lighting which are a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

### **Sign, Home Occupation**

A non-illuminated sign announcing a home occupation or professional service.

### **Sign, Identification**

A sign containing the name of a business operating on the premises where located, the type of business, owner or resident, and/or the street address, and sets forth no other advertisement display.

### **Sign, Illegal**

Any sign placed without proper approval or permits as required by this *Ordinance* at the time of sign placement. Illegal sign shall also mean any sign placed contrary to the terms or time limits of any permit and any nonconforming sign which has not been brought into compliance with any applicable provisions of this *Ordinance*.

### **Sign, Illuminated**

Any sign for which an artificial source of light is used in order to make readable the sign's message, including internally and externally lighted signs and reflectorized, glowing, or radiating signs.

### **Sign, Informational**

A small, non-advertising sign used to identify architectural features of a land use such as building entrances, drop boxes, restrooms, handicapped ramps, and similar features.

### **Sign, Length of Frontage**

For measurement purposes, the length of any primary or secondary frontage as defined in the standards for measurement (Section 5.7.4) shall be the sum of all wall lengths parallel, or nearly parallel, to such frontage, excluding any such wall length determined by the Zoning Administrator or Planning Commission as clearly unrelated to the frontage criteria. For buildings with two or more frontages, the length and allowable sign area shall be calculated separately for each such frontage. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

### **Sign, Logo**

An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

### **Sign, Marquee**

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Any sign painted on or attached to or supported by a marquee, which is a permanent rooflike shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.

### **Sign, Mural**

A painted design which covers all or a major portion of a wall, building, or structure. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

### **Sign, Neon**

A sign with tubing that is internally illuminated by neon or other electrically charged gas.

### **Sign, Nonconforming**

A sign lawfully existing on the effective date of this *Ordinance* which does not conform to one or more of the regulations set forth in this *Ordinance*.

### **Sign, Off Premise**

Any sign used for promoting an interest other than that of a business, individual, product, or service available on the premises where the sign is located.

### **Sign, On Premise**

Any sign used for promoting a business, individual, product, or service available on the premises where the sign is located.

### **Sign, Pennant**

A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.

### **Sign, Permanent**

A sign of durable construction and durable materials designed to remain in one location and position either through attachment to a building element or mounting on a standard secured to a below grade footing.

### **Sign, Political and Noncommercial**

Any sign designed for the purpose of supporting or opposing a candidate, proposition, or other measure at an election or for any other noncommercial expression not related to the advertisement of any product or service or the identification of any business.

### **Sign, Portable**

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A freestanding sign not permanently anchored or secured to either a building or the ground (such as a sandwich sign), including 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.

### **Sign, Projecting**

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.

### **Sign, Real Estate**

Any nonpermanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

### **Sign, Revolving or Rotating**

An animated sign.

### **Sign, Roof**

Any sign erected upon a roof, parapet, or roof-mounted equipment structure and extending above a roof, parapet, or roof-mounted equipment structure of a building or structure.

### **Sign, Sidewalk**

A portable sign of A-frame or swinging-style construction used during the hours a business is open and stored inside when not in use.

### **Sign, Special Event**

Any temporary or non-permanent sign advertising or pertaining to any civic, patriotic, or special event of general public interest.

### **Sign, Temporary**

A sign intended to be displayed for a limited period of time and one which is without permanent foundations or attachment to a permanent building.

### **Sign, Vehicle**

Any sign permanently or temporarily attached to or placed on a vehicle or trailer.

### **Sign, Wall**

Any sign attached or painted on the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall.



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### **Sign, Window**

Any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior (beyond the sidewalk immediately adjacent to the window), including signs located inside a building but visible primarily from the outside of the building.

### **Single Ownership**

Ownership by any one person or by two or more persons whether jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

### **Site**

One or more lots under the same ownership or control which are proposed to the Zoning Administrator as a whole for the purpose of compliance with the requirements and regulations of this *Ordinance*.

### **Site Plan**

A plan, to scale, showing existing site conditions and proposed alterations, construction, and uses for a site submitted in compliance with the requirements of this *Ordinance*.

### **Site Work**

Any of the following:

- Physical expansion of any principal or accessory building
- Alteration, replacement, addition, or removal of exterior building features.
- Alteration of the size, number, or location of curb cuts.
- Alteration of loading or unloading facilities.
- Alteration of existing off-street parking spaces or installation of new off-street parking spaces.
- Modification of landscaping.
- Relocation of an existing freestanding sign or installation of a new freestanding sign.

### **Slope**

The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

### **Slope, Steep**

Slopes of twenty-five percent (25%) or more for a distance of fifty (50) feet or more.

### **Sod**

## *Bessemer Township Zoning Ordinance*

A section of grass covered surface soil held together by matted roots.

### **Soil (Topsoil)**

The top layer of native soil.

### **Solar Access**

The ability to receive sunlight across real property to protect active or passive solar energy systems from shadows blocking exposure to the sun during specific hours.

### **Solar Collector**

Any object that transforms direct solar energy into thermal, chemical, or electrical energy.

### **Solar Energy**

Radiant energy (direct, diffuse, and reflected) received from the sun.

### **Solar Energy System**

A passive design using natural and architectural components to collect and store solar energy without using any external mechanical power or an active mechanical assembly that may include a solar collector, storage facility, and any other components needed to transform solar energy for thermal, chemical, or electrical energy. Examples include a solar greenhouse, solar panels, solar hot water heater, photovoltaic panels, passive solar panels, and a large, clear south-facing expanse of windows.

### **Solar Orientation**

Orienting (positioning) a structure to take full advantage of optimal solar access and performance.

### **Special Land Use**

A use that is not essentially incompatible with the uses permitted by right or with conditions in a zoning district, but possesses characteristics which require individual review and discretion in order to assure conformance with other agency standards or licensing requirements, avoid incompatibility with the surrounding area, and provide protection against nuisances or negative traffic, visual, environmental, privacy, and safety impacts. A special use is permitted in a particular district only after review by the Planning Commission and issuance of a permit, in accordance with the standards set forth in this *Ordinance*.

### **Special Use Permit**

A permit issued by the Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure specifically permitted as a special land use pursuant to standards and procedures established in this *Ordinance*.

## *Bessemer Township Zoning Ordinance*

### **Stable, Private**

An accessory building in which horses are kept for private use and not for remuneration, hire, or sale.

### **Stable, Commercial**

A building or structure in which horses are kept for commercial use or remuneration including breeding, boarding, hire, sale, riding, show, or training.

### **State Licensed Residential Facility**

A structure constructed for residential purposes that is licensed by the state under the *Adult Foster Care facility Licensing Act, P.A. 218 of 1979, MCL 400.701 to 400.737*, or the *Child Care Organizations Act P.A. 116 of 1973, MCL 722.111 to 722.128*, and provides residential services for six or fewer individuals under 24-hour supervision or care.

### **Stoop**

A structure that serves as an exterior floor with a finished floor elevation higher than the adjacent ground level, primarily utilized as an access platform to a building or structure.

### **Story**

That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story unless it is a walkout basement.

### **Street**

A dedicated public right-of-way which affords the principal means of vehicular access to abutting property. A street includes the entire right-of-way and any improvements constructed thereon.

### **Street Light**

A luminaire installed on both sides of streets.

### **Streetscape**

The visual image of a street, including the combination of buildings, signs, and other various components making up the street right of way area, including pavement, parking spaces, planting areas, street trees, streetlights, sidewalks, public amenities, etc.

### **Structural Soils**

## *Bessemer Township Zoning Ordinance*

An approved design medium which can meet or exceed pavement design and installation requirements while remaining root penetrable and supportive of tree growth.

### **Structure**

Anything constructed or erected, the use of which requires permanent fixation on the ground or attachment to something having permanent fixation on or in the ground; including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services. A paved, uncovered parking lot is not considered a structure.

### **Structure Height**

For all structures other than buildings, the vertical distance measured from the finished grade to the highest point of the structure. For buildings, see building height.

### **Subdivision**

The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the *Land Division Act, P.A. 288 of 1967, as amended, MCL 560.108 and 560.109*. Does not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of *P.A. 288 of 1967, as amended* or the requirements of this *Ordinance*.

### **Swimming Pool, Private**

Any artificially constructed basin or other structure for the holding of water for use by the possessor, his family or guests, for aquatic activity and recreation. Does not include any plastic, canvas, or rubber pool temporarily erected upon the ground holding less than three hundred (300) gallons of water.

**SECTION 15.23 DEFINITIONS – T**

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**Tavern**

An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises. May also include dancing and musical entertainment.

**Telecommunications**

Any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other means.

**Temporary Enclosure**

Any moveable, tent-like shelter intended to provide protection from the elements for storage, but for which a building permit is not required. Considered a structure as defined under this *Ordinance*, and governed by the setback requirements of this *Ordinance* unless the enclosure is set up for special occasions or events and is not used for storage. Includes temporary garages of tent-like construction.

**Tent**

A structure or enclosure or shelter constructed of fabric or other pliable material supported by any manner except by air or the contents protected by the material.

**Thoroughfare, Major**

A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which is classified as a county primary, state trunkline, or interstate highway.

**Topography**

The physical land surface relief describing the terrain elevation and slope.

**Tower**

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

## *Bessemer Township Zoning Ordinance*

### **Traffic Calming**

A concept fundamentally concerned with reducing the adverse impact of motor vehicles on built-up areas. Usually involves reducing vehicle speeds, providing quality space for pedestrians and bicyclists, and improving the visual interest of the public space.

### **Trail, Accessible**

A trail with amenities, trailheads, and facilities that comply with the accessibility guidelines of the ADA, including trail slopes and widths. Surface is blacktop, concrete, boardwalk, or firm gravel, limestone, slag, or soils.

### **Trail, Bike**

A developed trail of varied widths surfaced with blacktop or compacted stone on flat to rolling terrain.

### **Trail, Cross County Skiing**

A groomed trail or pathway, or un-groomed trail open to cross-country skiing.

### **Trail, Equestrian**

A designated trail open to horseback riding.

### **Trail, Hiking**

Natural or hard surface trails or pathways of varying widths that provide a variety of hiking challenges.

### **Trail, Mountain Biking**

A designated, rugged, natural surfaced, single track trail that offers a range of riding opportunities.

### **Trail, Multiple Use**

Trails offering a broad range of activity, consisting of both designated non-motorized trail activities such as hiking, mountain biking, jogging, rollerblading, horseback riding, and cross-country skiing, and motorized trail uses such as snowmobiling and off-road vehicles.

### **Trail, Off-Road Vehicle**

A designated trail that offers riding opportunities for motorcycles, all-terrain vehicles (ATV), and 4x4 vehicles.

### **Trail, Snowmobiling**

An area within a State Park or Recreation Area or a designated State trail that is open to snowmobiling activities.

### **Trail, Water**

A signed water route with or without portages for nonmotorized watercraft.

## *Bessemer Township Zoning Ordinance*

### **Transit**

The conveyance of persons or goods from one place to another by means of a local, public transportation system.

### **Travel Trailer**

A vehicular portable structure mounted on wheels and of a size and weight as not to require special highway movement permits when drawn by a stock passenger automobile or when drawn with a fifth wheel hitch mounted on a motor vehicle, and is primarily designed, constructed, and used to provide temporary living quarters for recreational camping or travel.

**SECTION 15.24 DEFINITIONS – U**

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**Unbuildable Area**

An area that cannot be used practicably for a habitable structure because of natural conditions such as severe topographic relief, water bodies, or soil conditions; because the structure could not be built as a permitted use under existing development regulations in this *Ordinance*; or because physical or legal conditions prohibit access.

**Underground Storage Tank**

A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain hazardous substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is ten percent (10%) or more beneath the surface of the ground.

**Undeveloped State**

A natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children’s play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public per *P.A. 110 of 2006, MCL 125.3102*.

**Unrelated Individuals**

Individuals who are not related by blood, marriage, or adoption. “Related by blood” shall mean whole or half relation between a common ancestor or descendent, brother or sister, uncle or aunt, niece or nephew, or first cousin.

**Use**

Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land. Uses may be permitted by right (*see Use, Permitted by Right*), permitted with conditions (*see Conditional Land Use*), or by special use permit (*see Special Land Use*).

**Use, Accessory (*See Accessory Use*)**

**Use, Change of**

A use of a building, structure or parcel of land, or portion thereof which differs from the previous use in the way it is classified in this *Ordinance*.



## *Bessemer Township Zoning Ordinance*

### **Use, Civic**

Community uses open to the public including: meeting halls; libraries; schools; police and fire stations; governmental offices; places of worship; rooming houses; museums; cultural, visual and performing art centers; transit centers; public buildings; recreational facilities; and government functions open to the public.

### **Use, Conditional** (*see Conditional Land Use*)

### **Use, Conforming**

Any use of a structure or land that is permitted by right, permitted with conditions, or permitted by special land use permit in the zoning district in which the lot, structure, building, sign, development, or land is located and which conforms to all regulations of this *Ordinance*.

### **Use, Non-Conforming**

A condition that occurs when a use of an existing structure or land fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, sign, development, or land is located, but which was conforming (“of record”) prior to the enactment of this *Ordinance* and became non-conforming on the effective date of adoption of this *Ordinance*, or an *Ordinance* text amendment or rezoning.

### **Use, Permitted by Right**

A use which is specifically authorized in a particular zoning district.

### **Use, Principal** (*see Principal Use*)

### **Use, Special** (*see Special Land Use*)

### **Utility**

All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm, and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

**SECTION 15.25 DEFINITIONS – V**

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**Variance**

A modification of the literal provisions of the *Zoning Ordinance*, granted by the Zoning Board of Appeals, when certain findings have been made as outlined in the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*. These findings seek to ensure that no variance is granted unless: (a) in the case of non-use variances, strict enforcement of the *Zoning Ordinance* would cause practical difficulty, as outlined in the aforementioned Act (b) in the case of use variances, the applicant demonstrates an unnecessary hardship exists as outlined in the aforementioned Act, (c) doing so would not be contrary to the public interest or the intent and purpose of the *Zoning Ordinance* (d) there are circumstances unique to the individual property on which the variance is granted, (e) the variance request is not due to actions of the applicant, (f) doing so will not cause a substantially adverse effect upon adjacent properties, or essentially alter the character of the surrounding area, or increase hazards, or increase traffic congestion.

**Vegetation**

Grasses, shrubs, trees, ground cover, and other plants which among other functions hold and stabilize soils and provide visual or aesthetic relief.

**Vending**

Any activity involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise, or services from a nonpermanent location or structure.

**Vibration** (*as in nuisance*)

A rapid oscillation of a particle or elastic surface back and forth across a central position which may produce pulsing, throbbing, reverberation, or resonance.

**View (same as View Corridor or View Shed)**

The route that directs a viewer’s attention to a visually sensitive area from a defined observation point.

**Visually Sensitive Area**

An area of visual significance to the community, which may include, but is not limited to skylines, ridgelines, bluffs, rock outcroppings, foothills, mountains, unique vegetation, floodplains, streams, surface water, and wildlife habitat.

**SECTION 15.26 DEFINITIONS – W**

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**Waterbody**

Any significant accumulation of water, including any creek, stream, canal, river, lake or bay, or any other source, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

**Watercourse**

Natural or once naturally flowing (perennially or intermittently) water including rivers, streams, and creeks. Includes natural waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

**Waterfront**

The land-water edge and the immediately adjacent property providing access to it.

**Watershed**

A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

**Water Table**

The upper limit of the portion of the soil that is completely saturated with water. The seasonal high-water table is the highest level to which the soil is saturated.

**Wetland**

Those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

**Wind Energy Conversion System (WECS)**

A machine that converts the kinetic energy in the wind into a useable form, commonly known as a “wind turbine”, “wind generator” or “windmill”; the WECS includes all parts of the system, including, but not limited to, the tower, pylon or other structure upon which any, all or some combination of components are mounted. The following associated definitions are also pertinent.

- **WECS:** A combination of:
  - A surface area, either variable or fixed, for utilizing the wind for generation of electrical power; and
  - A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device; and
  - The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and

## *Bessemer Township Zoning Ordinance*

- The tower, pylon or other structure upon which any, all, or some combination of the above are mounted.
- **Tower Height:**
  - **Horizontal Axis Wind Turbine Rotors:** The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontally-mounted WECS exceeds the structure which supports the rotor and blades;
  - **Vertical Axis Wind Turbine:** The distance between the ground and the highest point of the WECS.
- **Survival Wind Speed:** The maximum wind speed as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- **Interconnected WECS:** A WECS which is electrically connected to the local electrical power utility system and which could feed power back into the local electrical power utility system.

### **Wireless Communication Facilities**

All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio and television broadcasting or relay towers, wireless or cellular telephone communication receivers and transmitters, telephone devices and exchanges, microwave relay facilities and towers, telephone transmission equipment buildings, and public, private and commercial mobile radio service facilities.

## **SECTION 15.27 DEFINITIONS – X**

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**SECTION 15.28 DEFINITIONS – Y**

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**Yard**

Required open space on the same site as a principal building, unoccupied and unobstructed from the ground upward except as otherwise provided in this *Ordinance*.

**Yard, Front**

An open space extending the full width of the lot, the depth of which is the minimum horizontal distance permitted between the front lot line and the nearest point of the building.

**Yard, Rear**

An open space extending the full width of the lot, the depth of which is the minimum horizontal distance permitted between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage, but there shall only be one rear yard.

**Yard, Side**

An open space between the main building and the side lot line, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance permitted between the nearest point on the side lot line to the nearest point of the main building.

**Yard, Transitional**

A required yard located on sites abutting zoning district boundaries for the purpose of creating a buffer zone to reduce conflict between incompatible districts.

**Yurt**

A generally round domed building constructed of a membrane stretched on a collapsible or rigid frame used for transient recreational activities.

**SECTION 15.29 DEFINITIONS – Z**

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**Zone or Zoning district**

A mapped area to which a uniform set of regulations governing the use of buildings and premises applies.

**Zoning Administrator**

The official hired for the purposes of enforcing and administering this *Ordinance*, and for carrying out certain duties and responsibilities as defined in this *Ordinance*.

**Zoning Board of Appeals**

The body appointed by the Township Board to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this *Ordinance* would involve practical difficulties or would cause unnecessary hardship to the property owner.

**Zoning Permit**

A document signed by the Zoning Administrator according to procedures established in this *Ordinance*, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that indicates that a site plan, and/or other zoning application or request for special zoning approval or variance for a use, structure or building has been reviewed and determined to comply with the requirements of this *Ordinance* or has been granted a variance therefrom, or has been granted a planned unit development approval or a Conditional or Special Land Use Permit.