

# Byron Township Zoning Ordinance

Adopted June 10, 2013

Last Amended December 28, 2021

January 29, 2022 Edition



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# Table of Contents

<b>CHAPTER 1</b>	<b>TITLE, PURPOSE AND SCOPE.....</b>	<b>1-1</b>
Section 1.1	Short Title	1-1
Section 1.2	Purpose	1-1
Section 1.3	The Effect of Zoning	1-1
Section 1.4	Minimum Requirements	1-1
Section 1.5	The Effect of Other Regulations	1-1
Section 1.6	Relationship to Other Ordinances or Agreements	1-1
Section 1.7	Legal Basis	1-2
Section 1.8	Severability	1-2
<b>CHAPTER 2</b>	<b>DEFINITIONS .....</b>	<b>2-1</b>
Section 2.1	Rules Applying to Text	2-1
Section 2.2	Definitions A – B	2-1
Section 2.3	Definitions C – D	2-5
Section 2.4	Definitions E – F	2-8
Section 2.5	Definitions G – H	2-11
Section 2.6	Definitions I – J	2-12
Section 2.7	Definitions L – M	2-12
Section 2.8	Definitions N – O	2-15
Section 2.9	Definitions P – Q	2-16
Section 2.10	Definitions R – S	2-17
Section 2.11	Definitions T – U – V	2-20
Section 2.12	Definitions W – X – Y – Z	2-21
<b>CHAPTER 3</b>	<b>GENERAL PROVISIONS .....</b>	<b>3-1</b>
Section 3.1	Scope of Chapter	3-1
Section 3.2	Uses	3-1
Section 3.3	Dimensional Requirements	3-7
Section 3.4	Buildings and Structures	3-9
Section 3.5	Site Clearing, Grading and Drainage	3-18
Section 3.6	Parking and Storage	3-18
Section 3.7	Nuisances	3-19
Section 3.8	Private Streets	3-20

Section 3.9	Driveways	3-24
Section 3.10	Excavation and Site Preparation	3-26
Section 3.11	Temporary Uses	3-26
Section 3.12	Security to Complete Improvements	3-27
Section 3.13	Health Department Approval	3-27
Section 3.14	Condominiums	3-27
Section 3.15	Nonconforming Buildings, Uses and Lots	3-32
<b>CHAPTER 4</b>	<b>ZONING DISTRICTS AND ZONING MAP</b> .....	<b>4-1</b>
Section 4.1	Zoning Districts	4-1
Section 4.2	Zoning Map	4-1
Section 4.3	Zoning of Vacated Areas	4-2
<b>CHAPTER 5</b>	<b>AGRICULTURAL AND RESIDENTIAL DISTRICTS</b> .....	<b>5-1</b>
Section 5.1	Districts Established; Intent and Purpose	5-1
Section 5.2	Table of Uses	5-2
Section 5.3	Lot, Yard, and Building Requirements	5-4
Section 5.4	Application and Review Requirements	5-5
Section 5.5	MHC, Manufactured Housing Community, Special Conditions	5-5
Section 5.6	MFR, Multiple Family Residential District, Special Conditions	5-7
<b>CHAPTER 6</b>	<b>COMMERCIAL AND INDUSTRIAL DISTRICTS</b> .....	<b>6-1</b>
Section 6.1	Districts Established; Intent and Purpose	6-1
Section 6.2	Table of Uses	6-2
Section 6.3	Lot, Yard, and Building Requirements	6-5
Section 6.4	Development Requirements and Processes	6-6
Section 6.5	Special Conditions	6-6
<b>CHAPTER 7</b>	<b>PUD PLANNED UNIT DEVELOPMENT DISTRICT</b> .....	<b>7-1</b>
Section 7.1	Purpose	7-1
Section 7.2	Qualifying Conditions	7-1
Section 7.3	PUD Requirements	7-3
Section 7.4	General PUD Provisions	7-4
Section 7.5	Review Procedures	7-6
Section 7.6	Review Standards	7-10
Section 7.7	Changes to an Approved PUD	7-11
Section 7.8	Appeals	7-12

<b>CHAPTER 8</b>	<b>USE REQUIREMENTS .....</b>	<b>8-1</b>
Section 8.1	Specific Use Requirements	8-1
Section 8.2	Adult Entertainment Uses	8-1
Section 8.3	Adult Care Facilities	8-3
Section 8.4	Adult Foster Care Group Homes	8-3
Section 8.5	Airfields, Landing Strips & Heliports	8-4
Section 8.6	Bed and Breakfasts	8-4
Section 8.7	Commercial Boarding Stables/Riding Academies	8-4
Section 8.8	Campgrounds	8-6
Section 8.9	Cemetery	8-6
Section 8.10	Composting Facilities	8-7
Section 8.11	Contractor's Facilities	8-8
Section 8.12	Correctional Institutions	8-8
Section 8.13	Child Care Centers	8-9
Section 8.14	Drive-Through Facilities (Not Including Restaurants)	8-10
Section 8.15	Farm Implement Sales, Service and Rentals	8-10
Section 8.16	Farm Markets	8-10
Section 8.17	Funeral Homes and Mortuaries	8-11
Section 8.18	Garage Sales or Yard Sales	8-11
Section 8.19	Group Day Care Homes	8-11
Section 8.20	Home-based Business	8-12
Section 8.21	Hotels and Motels	8-13
Section 8.22	Migrant Housing	8-14
Section 8.23	Junkyards and Salvage Centers	8-15
Section 8.24	Kennels, Commercial	8-16
Section 8.25	Mini-warehouses/Self-storage Facilities	8-17
Section 8.26	Removal or Modification of Natural Resources	8-18
Section 8.27	Outdoor Display, Sales or Storage (Excluding Vehicle Sales)	8-22
Section 8.28	Places of Worship	8-23
Section 8.29	Public Buildings and Utility Facilities	8-23
Section 8.30	Recreation Facilities and Health Clubs, Indoor	8-24
Section 8.31	Recreation Facilities, Outdoor	8-24
Section 8.32	Restaurants with Drive Through Window	8-25
Section 8.33	Roadside Market Stands	8-26

Section 8.34	Sanitary Landfills	8-26
Section 8.35	Solar Energy Collectors	8-27
Section 8.36	Vehicle Service Stations	8-28
Section 8.37	Vehicle Repair, Major	8-29
Section 8.38	Vehicle Repair, Minor	8-30
Section 8.39	Vehicle and Trailer Sales	8-31
Section 8.40	Vehicle Wash Establishments	8-31
Section 8.41	Veterinary Hospitals and Clinics	8-31
Section 8.42	Wind Energy Conversion Systems	8-31
Section 8.43	Wineries, Farm	8-35
Section 8.44	Wineries, Small	8-36
Section 8.45	Wireless Communication Facilities	8-37
Section 8.46	Landscaping Businesses	8-46
Section 8.47	Colleges and Universities	8-47
<b>CHAPTER 9</b>	<b>SPECIAL USE.....</b>	<b>9-1</b>
Section 9.1	Statement of Purpose	9-1
Section 9.2	Review and Approval Authority	9-1
Section 9.3	Submission Requirements	9-1
Section 9.4	Public Hearing Requirements	9-2
Section 9.5	General Standards for Approval	9-2
Section 9.6	Specific Requirements	9-3
Section 9.7	Attachment of Special Conditions	9-3
Section 9.8	Reapplication	9-3
Section 9.9	Amendments	9-3
Section 9.10	Validity and Revocation of Special Land Use Permits	9-4
Section 9.11	Fees	9-4
<b>CHAPTER 10</b>	<b>TEMPORARY CONDITIONAL USES .....</b>	<b>10-1</b>
Section 10.1	Statement of Purpose	10-1
Section 10.2	Approval Procedures	10-2
Section 10.3	Permitted Temporary Conditional Uses	10-2
Section 10.4	Use Requirements	10-3
<b>CHAPTER 11</b>	<b>SITE PLAN REVIEW.....</b>	<b>11-1</b>
Section 11.1	Purpose and Intent	11-1
Section 11.2	Scope of Application	11-1

Section 11.3	Submittal Requirements	11-2
Section 11.4	Procedures and Requirements	11-4
Section 11.5	Changes to Approved Site Plans or Sketch Plans	11-6
Section 11.6	Standards for Site Plan Approval	11-7
<b>CHAPTER 12</b>	<b>SITE DEVELOPMENT REQUIREMENTS</b> .....	<b>12-1</b>
Section 12.1	Landscaping	12-1
Section 12.2	Exterior Lighting Requirements	12-7
Section 12.3	Parking and Loading Requirements	12-10
Section 12.4	Signs	12-18
<b>CHAPTER 13</b>	<b>ZONING BOARD OF APPEALS</b> .....	<b>13-1</b>
Section 13.1	Creation and Membership	13-1
Section 13.2	Meetings and Public Hearings	13-1
Section 13.3	Jurisdiction and Decisions	13-2
Section 13.4	Administrative Appeals	13-3
Section 13.5	Dimensional Variances	13-3
Section 13.6	Conditions of Approval	13-4
Section 13.7	Rehearing and Application	13-5
Section 13.8	Limitation on Powers	13-5
Section 13.9	Official Record; Findings of Fact	13-5
Section 13.10	Miscellaneous	13-6
<b>CHAPTER 14</b>	<b>ADMINISTRATION AND ENFORCEMENT</b> .....	<b>14-1</b>
Section 14.1	Administration and Enforcement	14-1
Section 14.2	Zoning Compliance	14-1
Section 14.3	Zoning Administrator; Additional Duties	14-2
Section 14.4	Fees, Charges and Expenses Established by the Township	14-3
Section 14.5	Interpretation	14-3
Section 14.6	Performance Guarantee	14-3
Section 14.7	Amendments and Rezoning	14-5
Section 14.8	Conditional Rezoning	14-7
Section 14.9	Revocation of Approvals	14-7
Section 14.10	Public Hearings	14-7
Section 14.11	Enforcement	14-7
Section 14.12	Stop Work Order	14-8
Section 14.13	Severability Clause	14-8

Section 14.14 Repeal of Prior Ordinance; Pending Zoning Applications	14-8
Section 14.15 Effective Date	14-9



# Chapter 1 Title, Purpose and Scope

## Section 1.1 Short Title

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This Ordinance shall be known and may be cited as the Byron Township Zoning Ordinance.

## Section 1.2 Purpose

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This Ordinance is intended to promote the public health, safety and general welfare; to encourage the use of land in accordance with its character and adaptability; to limit the improper use of land; to conserve natural resources and energy to meet the needs of the public for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; to ensure that uses of land are situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for transportation uses, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources, and other property interests. In accordance with the Michigan Zoning Act, this Ordinance is based on a Master Plan for the Township, which promotes safeguarding the character and unique resources of the community, while providing for a full range of land uses in harmony with that character and the ability to provide public services.

## Section 1.3 The Effect of Zoning

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All lands, buildings, structures or premises within the Township shall only be used or occupied; and a building, structure or any of its parts shall only be erected, razed, moved, reconstructed, enlarged or altered, in conformance with this Ordinance.

## Section 1.4 Minimum Requirements

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The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare in the Township.

## Section 1.5 Effect of Other Regulations

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The regulations of this Ordinance shall be in addition to any other regulations in effect in the Township. All building, subdividing and uses within any district shall satisfy all building, planning, platting, zoning and any other related regulations.

## Section 1.6 Relationship to Other Ordinances or Agreements

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This Ordinance does not repeal or annul any ordinance, regulation, permit, easement, covenant or private agreement previously adopted, issued or entered into and not in conflict with the provisions of this Ordinance. Where the regulations of this Ordinance are more restrictive or impose higher standards than other ordinances, regulations, permits, easements, covenants or private agreements the requirements of this Ordinance shall govern.

**Section 1.7                    Legal Basis**

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This Ordinance is adopted pursuant to the Michigan Zoning Act, being Act 110 of the Public Acts of Michigan of 2006, as it may be amended.

**Section 1.8                    Severability**

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If a provision of this Ordinance is found to be invalid by any court of competent jurisdiction that invalidation shall not affect any other provision of this Ordinance, except for any other provision that is also found to be invalid.

# Chapter 2 Definitions

## Section 2.1 Rules Applying to Text

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- A. The following words, terms and phrases, when used in this Ordinance, shall have the meanings assigned to them in this Chapter, except where the context clearly indicates a different meaning.
- B. **Rules of Construction.** The following rules of construction apply to this Chapter:
  - 1. The particular shall control the general and the use of a general term shall not be taken to have the same meaning as another specific term. For example, a “dry cleaning retail establishment” shall not be interpreted to be the same as a “retail business supplying commodities on the premises,” if each term is listed as a separate and distinct use.
  - 2. In case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control.
  - 3. A building or structure includes any and all of its parts.
  - 4. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
  - 5. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
  - 6. The word “person” includes any individual, corporation, partnership, incorporated association, limited liability company or any other similar entity.
  - 7. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:
    - a. "And" indicates that the connected items, conditions, provisions or events 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 apply singly but not in combination.
  - 8. Terms not defined in this Chapter shall have the meaning customarily assigned to them.

## Section 2.2 Definitions A – B

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**Abutting lot, parcel or right-of-way:** A lot, parcel, or public or private street right-of-way that shares a common property line with the subject lot or parcel.

**Accessory Building or Structure:** A detached building or structure on the same lot with and of a customarily incidental nature that is subordinate to the principal structure and accommodates an accessory use.

**Accessory Use:** A use located on the same lot that is customarily found in connection with, but clearly incidental to the principal use to which it is related.

**Addition:** An extension or increase in floor area or height of a building or structure.

**Adult:** A person at the legal age of adulthood, as defined by the laws of the state of Michigan.

**Adult Day Care Home:** A private residence with the approved capacity to receive six or fewer adults, to be provided with foster care for periods of less than 24 hours per day, five or more days per week and for two or more consecutive weeks, as licensed and regulated under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 et seq., as amended.

**Adult Entertainment Use:** Any use of land devoted to displaying or exhibiting printed, recorded or electronic material, or live entertainment, a significant portion of which depicts, describes or presents "Specified Sexual Activities" or "Specified Anatomical Areas", as defined below. The term "significant", as used above and as follows, is defined as greater than 20 percent of the total material displayed or exhibited for sale or entertainment. Adult regulated uses, activities and related definitions include, but are not limited to the following:

- A. **Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration an electronically, electrically, or mechanically controlled still or motion picture machine, projector, video or disc player, or other image producing device is maintained to show images to five (5) or fewer persons per machine at any one time, and where the image is so displayed or distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- B. **Adult Bookstore, Adult Novelty Store, or Adult Video Store.** A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration, any one or more of the following:
  - 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, discs or other video reproduction, slides, or other visual representations which are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or
  - 2. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."
- C. **Adult Cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
  - 1. Persons who appear live in a state of nudity or semi-nudity; or
  - 2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
  - 3. Films, motion pictures, video cassettes or discs, slides or other video or photographic reproductions which are distinguished or characterized by the depiction of "specified sexual activities" or "specified anatomical areas."
- D. **Adult Motel.** A hotel, motel or similar commercial establishment which:
  - 1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproduction; or
  - 2. Regularly offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - 3. Regularly allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- E. **Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration,

films, motion pictures, videos, slides, or other similar photographic reproduction are regularly shown which are consistently distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

- F. **Massage Parlor.** An establishment offering or providing massages, body rubs, physical stimulation or other similar treatments where the person either receiving or providing the service exposes "specified anatomical areas", or which involves real or simulated "specified sexual activities. The following uses are not included as part of this definition:
1. Services by a licensed physician, chiropractor or osteopath, a licensed or certified physical or massage therapist, a licensed practical nurse or any other similarly licensed medical professional;
  2. Electrolysis treatment by a licensed operator of electrolysis equipment;
  3. Hospitals, nursing homes, medical clinics or medical offices; and,
  4. Barber shops or beauty parlors, health spas and/or salons offering massage to the scalp, face, neck or shoulders only.
- G. **Specified Anatomical Areas.** The graphic depiction, whether real or simulated, of less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- H. **Specified Sexual Activities.** The graphic depiction, whether real or simulated, of human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**Adult Foster Care:** See *Foster Care*.

#### **Agricultural and Related Products and Operations:**

- A. **Agricultural Products:** Includes, but is not limited to forage and sod crops, grain and feed crops, aquaculture, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, horticultural specialties, honey, equine and other similar products; or any other product produced on-site that includes the use of food, feed, fiber, fur or flora.
- B. **Agriculturally Related Products:** Items sold at a farm market that promote the sale of agricultural products. They include, but are not limited to all agricultural products, animal feed, food stuffs (baked goods, desserts, beverages, jams, processed honey, etc.), gift items and other items directly related to promoting farming and agriculture in Michigan, including value-added agricultural products.
- C. **Agriculturally Related Uses:** Activities that predominantly employ agricultural products, buildings or equipment, such as fruit picking, pony rides, corn mazes, barn dances, sleigh/hay rides and related educational events or classes.

**Air Strip or Helipad:** A runway or helicopter landing area without formal facilities, such as check-in service desk, TSA security checkpoints, and baggage handling.

**Airport:** A facility accommodating air travel with a runway and formal facilities, such as check-in service desk, TSA security checkpoints, and baggage handling.

**Alteration:** A change, addition or modification in construction or type of occupancy; any change in a building, such as walls, partitions, columns or joists; any change in the dimensions or configuration of the roof, exterior walls or foundation; or any change which may be referred to as altered or reconstructed.

**Amusement Device:** Any device, table, board, computer or machine which may be operated for a fee or charge as a game, contest or amusement.

**Amusement Establishment:** Any building, structure, premises or part thereof used solely or primarily for operation of amusement devices and containing six or more such devices.

**Animal, Farm:** Any animal or fowl customarily raised on a bonafide commercial farm for the production of income, including but not limited to goats, rabbits, horses, cows, pigs, chickens, turkeys, sheep, ducks, and geese or that are customarily raised for non-commercial consumption or production by the residents of the premises.

**Animal, Household or Domestic:** An animal commonly domesticated as a companion or pet and kept in a home or yard. Examples include dogs, cats, birds, fish, small rodents and similar animals, and are not used for commercial purposes, consumption, or farm production.

**Animal, Wild:** Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law.

**Auction House:** A place where objects of art, furniture or other goods are offered for sale to persons who bid on the object in competition.

**Auction Sales Establishment:** A place where objects of art, furniture or other goods are offered for sale to persons who bid on the object in competition.

**Automobile Sales, Storage:** See *Vehicle Sales, Storage*

**Bakery:** An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site, and the use may include accessory food service.

**Basement:** The part of a building between a floor and ceiling, which is partially below and partially above ground level, but with a vertical distance from grade to the floor below that is greater than the vertical distance from grade to the ceiling. A basement is not counted as a story.

**Bed and Breakfast:** A private residence offering overnight accommodation to lodgers in the principal residence of the owner or resident operator of the establishment, and that serves breakfast as a part of the overnight accommodation.

**Berm:** An earth mound that is graded, shaped and improved, with or without landscaping.

**Billboard as a Principal Land Use:** The establishment of a billboard on a property as its sole use.

**Board:** The Byron Township Board.

**Boarding Stables:** A structure designed for the feeding, housing and exercising of horses, owned by someone other than the owner of the premises, and for which the owner of the premises receives compensation. This definition also includes riding stables and riding academies.

**Brewery:** A facility, equipment and premises for the brewing, production and sale of beers, including ales, meads and similar alcoholic beverages, operated by a brewer licensed by the Michigan Liquor Control Commission.

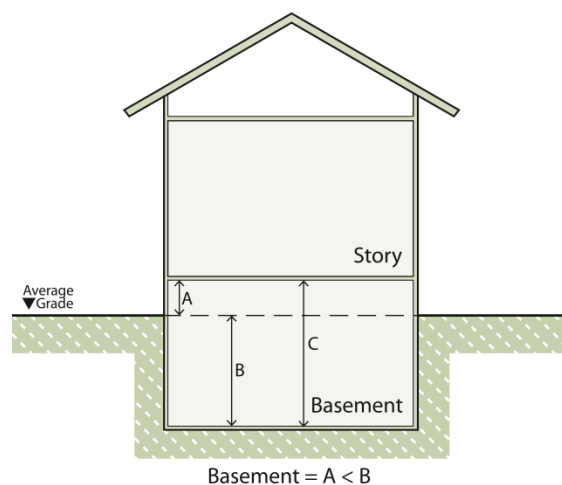


Figure 2-1: Basement

**Buffer:** A strip of land providing separation and visual relief between properties, reserved for landscaping, berms, walls or fencing; often between abutting uses of differing intensities.

**Buildable Area:** See *Building Envelope*.

**Building:** An independent structure, with a roof supported by columns, walls, or other supports that is used to house people, animals, possessions, or conduct business activities or other uses. A building may or may not have a permanent location on the ground.

**Building Height:** The vertical distance measured from finished grade to the highest point of the building.

**Building Official** or **Building Inspector:** The person designated by the Township Board to administer the building code.

**Building, Pole:** A quickly constructed building, usually sided with metal or aluminum, in which vertical poles are secured in the ground to serve as both the foundation and the framework.

**Business Center:** An area planned and constructed as a coordinated development for multiple business, offices and/or other permitted commercial uses, with shared common areas and facilities, including open space, off-street parking areas, access entrances, internal circulation drives, utilities and the like.

## Section 2.3                      Definitions C – D

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**Campground:** A form of temporary lodging approved by the State of Michigan where guests bring tents, travel trailers, campers, or other similar forms of shelter to experience the natural environment. Campgrounds rent pads or spaces to guests and may also include accessory uses such as a camp store, shower/bathroom facilities, and recreational facilities.

**Carport:** A partially open structure providing shelter for one or more vehicles.

**Carry-out Service.** A service that is ancillary to a permitted use involving the sale of pre-ordered and ready-to-consume food or beverages, which are packaged and intended for consumption off the premises. These items are delivered to a customer who is either waiting in the premises, or in a motor vehicle parked in a space designated and used for carry-out service.

**Cemetery:** One (1) or a combination of more than one (1) of the following: a burial ground for earth interments, a mausoleum for crypt entombments, or a columbarium for the inurnment of cremated remains. For the purposes of this ordinance, a cemetery does not include a crematorium.

**Certificate of Occupancy:** A document issued by the Township certifying that a structure or use has been constructed and will be used in compliance with all applicable regulations and, therefore, occupancy or the use of the building can occur.

**Change of Use:** Any use of a building, structure or property different from the previous use in the way it is classified in this Ordinance, or in the State Building Code, as amended.

**Club, Private Noncommercial:** Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

**Commercial Kennel or Animal Shelter:** A facility for the boarding, breeding, training, and/or grooming of animals that are not owned by the operator for a fee, or a facility that keeps stray, homeless, abandoned, or unwanted animals indefinitely or until adoption. This use includes pet daycare facilities, animal training facilities, and may include grooming as an accessory use.

**Commission:** The Byron Township Planning Commission.

**Composting Facility:** A facility where organic matter that is derived primarily from off-site is processed by composting for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

**Conditional Rezoning:** In accordance with Section 405 of the Zoning Enabling Act, a rezoning that is based on conditions voluntarily offered by the property owner that impose added restrictions on the use and/or dimensional provisions of the proposed zoning district.

**Condominium, Site:**

- A. **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 site condominium deed.
- B. **Condominium Act:** Public Act 59 of 1978, as amended.
- C. **Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed of the condominium project, within which a building or other improvements may be constructed by the condominium unit owner. A site condominium unit is considered a lot by this Ordinance.
- D. **Condominium Project:** A plan or project consisting of not less than two condominium units, established in conformance with the Condominium Act.
- E. **Limited Common Element:** An area that is appurtenant to a site condominium unit and that is reserved in the master deed for the site condominium development for the exclusive use of the owner of the site condominium unit.
- F. **Site Condominium:** A condominium development in which each condominium unit consists of an area of vacant land and a volume of vacant air space, within which a building or other improvements may be constructed.
- G. **Site Condominium Development:** A development consisting of not less than two site condominium units, established in compliance with the Condominium Act.
- H. **Site Condominium Development Plan:** The plans, drawings and information prepared for a site condominium development, as required by Section 66 of the Condominium Act and this Ordinance, for review by the Planning Commission and the Township Board.

**Construction and Landscape Supply, Outdoor:** A commercial establishment that sells supplies for building construction and/or landscaping projects, where such supplies are placed outdoors.

**Contractor Facility:** An office and storage or warehouse facility accommodating a construction or skilled trade service contracting business.

**Convalescent Home or Nursing Home:** A facility licensed as a “nursing home” by the State Department of Public Health under Article 17 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.2010 et seq., MSA 14.15 (20101) et seq.), as amended. A “nursing home” shall include an extended care facility and a convalescent home.

**Correctional Institution:** Facilities for the judicially required detention or incarceration of people, where inmates and detainees are under 24-hour guarded supervision.

**Crematorium:** A facility consisting of one or more furnaces for cremation services.

**Cul-de-sac:** The vehicle turn-around area constituting the terminus of a street that has only one outlet to another street. A cul-de-sac lot has frontage on such a turn-around area.



## Day Care:

- A. **Day Care, Adult Day Care Home:** A private residence with the capacity to receive at least one (1) but not more than four (4) adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.
- B. **Day Care, Child Care Center:** Licensed under the Child Care Organizations Act, Public Act 116 of 1973, a facility other than a private residence in which one or more preschool or school age children are given care and supervision for periods of less than twenty four (24) hours per day, and where the parents or guardians are not immediately available to the child. A child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program or drop-in center.
- C. **Day Care, Family Day Care Home (Children):** Licensed under the Child Care Organizations Act, Public Act 116 of 1973, a private home in which one (1), but fewer than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care homes include a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- D. **Day Care, Group Day Care Home (Children):** Licensed under the Child Care Organizations Act, Public Act 116 of 1973, a private home in which more than six (6), but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A group day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

**Deck:** A structure, which may be directly attached to a dwelling, without a roof or walls, except for railings, that is constructed on piers or an above-grade foundation wall and used as an outdoor living area.

**Density:** The number of dwelling units per acre of land. Net acreage shall be calculated by subtracting the area in rights-of-way or easements for streets and roads from the total gross acreage, unless otherwise specified in this Ordinance.

**Distillery:** A facility, equipment and premises for the distilling, production and sale of spirits, as defined by the Michigan Liquor Control Code, operated by a distiller licensed by the Michigan Liquor Control Commission.

**Distillery, Small:** A facility, equipment and premises for the distilling, production and sale of spirits, as defined by the Michigan Liquor Control Code, operated by a small distiller licensed by the Michigan Liquor Control Commission to distill, produce and sell spirits in quantities not exceeding those permitted by the Michigan Liquor Control Code.

**Drive-in or Drive-Through Facility:** A method used to serve patrons of a business while in their motor vehicles, either exclusively or in addition to service within a building or structure.

**Dry Cleaning and Laundry Plant:** A facility used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation.

**Dormitory:** A building, or multiple rooms in a building, used for living and sleeping purposes by college and/or university students, established and operated by a college or university, or if otherwise

established and operated, nevertheless used for such purposes in association with a college or university.

**Driveway:**

- A. **Single Driveway.** A privately controlled and maintained easement, right-of-way or other interest in land, located and constructed in accordance with the requirements of this Ordinance, providing vehicular access from a public or private street to a single lot.
- B. **Shared Driveway.** A privately controlled and maintained right-of-way or easement that provides the means of access to two or more lots, parcels, buildings, or dwellings.

**Dwelling Unit:** A building or portion of a building, designed for use and occupancy by one family for living and sleeping purposes and with housekeeping facilities. A recreational vehicle, vehicle chassis, tent or other transient residential use is not considered a dwelling.

- A. **Dwelling, Multiple-Family:** A building containing three or more dwelling units where each unit may have access to a common hallway, stairs or elevator, or where each unit may have individual access to a street or common courtyard.
- B. **Dwelling, Single-Family Attached:** A dwelling unit designed for occupancy by one family in a row of at least three (3) such units in which each unit has its own front and rear access to the outside; no unit is located over another; and each unit is separated from any other unit by one or more vertical common, fire-resistant walls. (also known as a townhouse or rowhouse)
- C. **Dwelling, Single-Family Detached:** A one-family dwelling unit that is detached from any other dwelling.
- D. **Dwelling, Two-Family:** A one-family dwelling unit attached to one other one-family dwelling by a common wall. (Also known as a “duplex”).

**Section 2.4                      Definitions E – F**

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**Easement:** A grant of one or more rights by the property owner to and/or for the use by the public, a utility or another person or entity.

**Environmental Impact Statement:** A report detailing the change to a parcel of land or its environment resulting from a particular use.

**Essential Services:** The erection, construction, alteration, or maintenance by a public utility, or municipal department, of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water, transmission, distribution collection, supply, or disposal systems. This includes related poles, wires, pipes, conduit, cables, public safety alarm and communication equipment, traffic signals, hydrants and similar accessories that are necessary to furnish adequate service, addressing general public health, safety, convenience, or welfare. Wireless telecommunication towers (unless located on public property and used as part of a municipal emergency communications network), wind energy conversion systems, office buildings, substations, or structures that are enclosures or shelters for service equipment, or maintenance depots are not considered essential services.

**Equipment Rental:** A commercial establishment that rents heavy equipment, such as construction and landscaping machinery, trailers, farm equipment and similar items.

**Event and Banquet Center:** A facility that provides rental space for such functions as, but not limited to the following: wedding parties, conferences, service club meetings, and other similar gatherings, along with the catering of food services off the premises.

**Excavation:** The process of altering natural grade by cutting or filling earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced or relocated.

**Family:** Either of the following defines a family:

- A. An individual or group of two or more persons, related by blood, marriage or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals, domiciled together in one dwelling unit whose relationship is of a continuing, non-transient domestic character, and who cook and live as a single nonprofit housekeeping unit. This does not include a society, club, fraternity, sorority, association, half-way house, lodge, organization, group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, such as a school term, or a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

**Farm Implement Sales and Service:** A commercial establishment that sells, rents, or repairs agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming.

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

1. Marketing produce at roadside stands or farm markets.
2. The generation of noise, odors, dust, fumes, and other associated conditions.
3. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
4. Field preparation and ground and aerial seeding and spraying.
5. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
6. Use of alternative pest management techniques.
7. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
8. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
9. The conversion from a farm operation activity to other farm operation activities.
10. The employment and use of labor.

**Farm Market:** This term shall be defined in the same manner as it is defined in the version of the Generally Accepted Agricultural and Management Practices for Farm Markets, as promulgated by the Michigan Commission of Agriculture & Rural Development, in effect at the time of when the Township applies this term to a particular matter.

**Fence:** A permanent outdoor partition, wall, fence, structure or gate, erected as a barrier or enclosure.

**Filling:** Depositing or dumping any matter into or onto the ground.

**Floor Area, Gross:** The sum of the horizontal area of all building floors, measured from the interior faces of exterior walls.

**Floor Area, Usable:** The sum of the total horizontal area of all building floors that are used or intended to be used for the sale of merchandise, or to serve clients or customers, and all areas devoted to employee work space. Floor area is measured from the interior faces of exterior walls. Excluded from usable floor area are those parts of a building principally used, or intended to be used to store or process merchandise, and hallways, elevators, stairs, bulkheads, or utility or sanitary facilities.

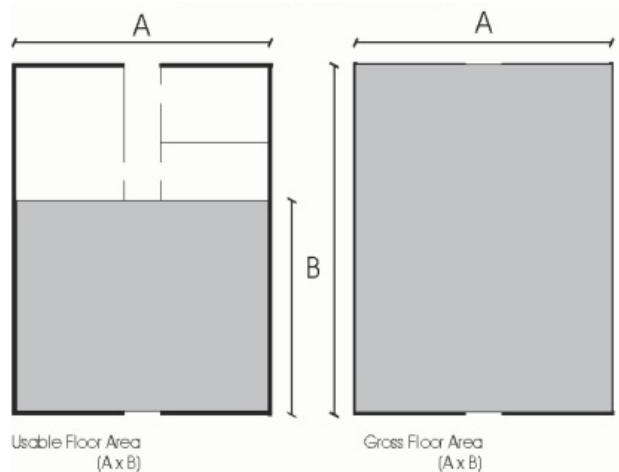


Figure 2-2: Floor Area

**Food Truck:** A large, motorized vehicle, such as a van or trailer or similar vehicle, equipped to cook, prepare, serve, and/or sell food to customers.

**Foster Care:**

- A. **Adult Foster Care Facility:** A facility defined by the Adult Foster Care Facility Licensing Act (PA 218 of 1979) as an establishment providing foster care to adults. Included are foster care facilities and family homes for adults who are aged, mentally ill, developmentally disabled or physically disabled, and who require supervision on an ongoing basis, but who do not require continuous nursing care.
  1. **Foster Care, Adult Foster Care Family Home:** A private residence with an approved capacity of six or fewer adults, where foster care is provided 24 hours per day, five or more days per week, and for two or more consecutive weeks. It is licensed and regulated under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 et seq., as amended. The person issued the adult foster care family home license is a member of the household and an occupant of the residence.
  2. **Foster Care, Adult Foster Care Group Home:** A private residence where adults are provided with foster care 24 hours a day, five or more days per week, and for two or more consecutive weeks. A foster care group home with an approved capacity of at least seven, but not more than 12 adults is a “small group home.” A group home with an approved capacity of at least 13, but not more than 20 adults is a “large group home”. An adult foster care facility is licensed under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 et seq., as amended, and the person issued the adult foster care group home license is a member of the household and an occupant of the residence.
- B. **Foster Care, Foster Family Home (Children):** A private home, licensed under Act 116 of the Public Acts of 1973, in which at least one, but not more than four minor children who are not related to an adult member of the house by blood or marriage, or who are not placed in the household pursuant to the Adoption Code (Act 288 of the Public Acts of 1939, as amended), are given care and supervision 24 hours per day, four or more days per week for two or more consecutive weeks, unattended by a parent or guardian. The person issued the license is a permanent resident of the home.

- C. **Foster Care, Foster Family Group Home (Children):** A private home, licensed under Act 116 of the Public Acts of 1973, in which more than four, but fewer than seven minor children, who are not related to an adult member of the house by blood or marriage, or who are not placed in the household pursuant to the Adoption Code (Act 288 of the Public Acts of 1939, as amended), are given care and supervisions 24 hours per day, four or more days per week for two or more consecutive weeks, unattended by a parent or guardian. The person issued the license is a permanent resident of the home.

**Fraternity or Sorority House:** A building used as a meeting place and for social occasions for a men's or women's organization that has been officially recognized by a college or university, in which living and sleeping accommodations are provided for college or university students who are members of the organization or for other college or university students.

**Frontage:** The length of the front lot line measured at the road right-of-way or easement line.

**Funeral Home and Mortuary:** A building used for the preparation of the deceased for burial or cremation, for the display of the deceased and/or for ceremonies or related services, including the storage of caskets, funeral urns, funeral vehicles, and other funeral supplies.

## Section 2.5                      Definitions G – H

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**General office or service:** Establishments that offer financial, business, business support, personal, and professional and administrative services.

- A. **Financial Service.** Financial institutions, including, but not limited to the following: banks, credit agencies, investment companies, security and commodity exchanges, ATM facilities.
- B. **Business Service.** Establishments providing direct services to consumers, including, but not limited to the following: employment agencies, insurance agent offices, real estate offices, and travel agencies.
- C. **Business Support Service.** Establishments providing services to other businesses, including, but not limited to the following: computer rental and repair, copying, quick printing, mailing and mailbox services.
- D. **Personal Service.** Establishments providing non-medical services to individuals, including, but not limited to the following: barber and beauty shops, tattoo parlors, dry cleaners, small appliance repair, massage therapists, pet grooming with no boarding, shoe repair shops, and tanning salons. These uses may include incidental retail sales related to the services they provide.
- E. **Professional or Administrative Service.** Office-type facilities occupied by businesses or agencies that provide professional or government services, or are engaged in the production of intellectual property or research and development.

**General Retail:** Stores and shops that sell and/or rent goods and merchandise to the general public.

**Grade:** The elevation of the ground adjacent to a structure; existing or natural grade is the elevation that exists or existed prior to manmade alterations. Finished grade is the elevation established after filling or excavation. For a sloping site, finished grade is the average between the highest and lowest elevation of the ground adjacent to each face of a building, wall or other structure being measured.

**Greenhouse and Nursery:** A retail business whose principal activity is the indoor and/or outdoor sales of plants grown on the site and nursery products produced on the site. The use may include accessory landscaping services.

**Home Based Business:** A business operated at a dwelling that because of its nature, intensity, scope, characteristics, activities and equipment is not customary for a residential property and does not qualify as a home occupation. A home based business is operated by the occupants of the dwelling and is clearly an incidental and secondary use of the property.

**Home Occupation:** An occupation or profession that is customarily incidental and secondary to the use of a dwelling. It is customarily conducted within a dwelling, carried out by its occupants utilizing equipment customarily found in a home and, except for a sign allowed by this Ordinance, is generally not distinguishable from the outside.

**Hospital:** A health care institution licensed by the State, in which persons, including inpatients, receive medical, surgical or psychiatric treatment and nursing care.

**Hotel or Motel:** A building under single management that provides rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. Other supportive facilities may also be included such as, but not limited to, meeting rooms, incidental retail sales, restaurants, lounges, swimming pools, recreational and fitness facilities and similar facilities/services intended principally to serve registered guests.

**Household:** All persons occupying a house, apartment, group of rooms or a single room occupied as separate living quarters, regardless of their relationship to one another.

## Section 2.6 Definitions I – J – K

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**Impervious Surface:** Any material that substantially reduces or prevents the infiltration of stormwater into the earth.

**Impound Operation:** Any land or structure used for the impounding of any operable or inoperable vehicle associated with towing or wrecker services.

**Inoperable Vehicle:** An unlicensed, uninsured motor vehicle that is incapable of being operated under its own power.

**Junk:** Including, but not limited to inoperable vehicles; solid waste; motor vehicles, machinery, appliances, products, or merchandise with missing parts; scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition preventing them from being used as manufactured.

**Junk Yard or Salvage Yard:** An area used for any of the following: collection, storage, dismantling, dumping, display, resale, exchange, baling, cleaning or handling of second hand salvaged, or used waste materials, machinery, vehicles, trailers, equipment or furnishings; but excluding vehicle, boat, truck or trailer sales areas.

**Kennel:** A lot or facility on which four or more dogs, cats or other household pets, three months of age or older, are either permanently or temporarily kept for sale, boarding, breeding, training, competition or showing, for non-commercial purposes.

## Section 2.7 Definitions L – M

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**Landfill:** A facility used primarily for disposal of trash, refuse or waste material of any kind; by abandonment, discarding, dumping, reduction, burial, incineration or other means.

**Landscape Business:** A contractor facility that conducts off-site landscaping services. The facility may include offices, warehousing, storage, and equipment and vehicle parking that is necessary to the business.

**Laundromat and Dry Cleaning Pick-Up Service:** A facility where patrons wash and dry clothing or other fabrics in machines operated by the patron, allows for drop-off and pick-off of items to be cleaned off-site, or both services.

**Loading Space:** An off-street space on the same lot as a building or group of buildings, used to temporarily park a commercial vehicle while loading and unloading merchandise or materials.

**Lot:** A parcel of land intended for individual ownership and use, separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds, as part of a platted subdivision or site condominium.

- A. **Lot Area:** The area of land included within a lot as defined by property lines, but excluding any public rights-of-way.
- B. **Lot Coverage:** The lot area, stated as a percentage of the total, covered by all buildings, areas under roof, drives and driveways, parking lots, patios, decks and other impervious surfaces.
- C. **Lot Depth:** The average distance between the front lot line and the rear lot line. The average shall include measurements of the side lot lines, if extending from front lot line to rear lot line, and the shortest and longest measurement from the front lot line to the rear lot line, regardless of any offset or jog to the lot or parcel or irregular shape.
- D. **Lot Width:** The horizontal distance between side lot lines measured at the two points where the required minimum front setback intersects the side lot lines.
- E. **Lot, Corner:** A lot with at least two contiguous sides abutting two intersecting streets, and where the interior angle of the intersecting streets is less than 135 degrees. Also, a lot located on a curved street or streets if tangents of the curve, at the points of beginning with the lot or the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees. A corner lot has two front yards.
- F. **Lot, Cul-De-Sac:** A lot having more than one-half its required frontage on a cul-de-sac. The cul-de-sac shall be determined to begin at the intersection of the radius of the cul-de-sac with the right-of-way or easement line.
- G. **Lot, Interior:** A lot other than a corner or through lot.
- H. **Lot, Through:** An interior lot bordered by two, more or less, abutting parallel streets.

#### **Lot Lines:**

- A. **Front Lot Line:** In the case of an interior lot, the line separating the lot from the street right-of-way or road easement. For a corner lot, the front lot line shall be the shortest of the two lot lines tangent to the street right-of-way, or road easement. In the case of a triple fronted lot, the front lot line shall be determined by the zoning administrator based on the dominant orientation of abutting and facing lots.
- B. **Rear Lot Line:** The lot line opposite and most distant from the front lot line. In the case of an irregular, triangular or flared lot, the rear lot line shall be a line at least 10 feet in length entirely within the lot, parallel to and at the maximum distance from the front lot line. A through lot does not have a rear lot line.
- C. **Side Lot Line:** A lot line that is neither a front lot line, nor a rear lot line.

**Lot of Record:** A parcel of land separately described on a plat, condominium document or metes and bounds description recorded in the office of the Kent County Register of Deeds. When an owner has combined two or more lots into a single building site, or combined two or more lots contained in any recorded plat, the combination of lots shall be deemed to be a single lot of record.

**Manufactured Home:** A factory-built, single family structure that is manufactured under the National Manufactured Home Construction and Safety Standards Act. It is transportable in one or more sections, built on a permanent chassis or foundation and used as a dwelling. It is not constructed with a permanent hitch or other device allowing its transport, other than for its delivery to a permanent site and does not have wheels or axles permanently attached to its body or frame.

**Manufactured Housing Community:** A property that has been planned, designed, improved and maintained for the placement of manufactured homes and permitted accessory uses where home sites are leased to individuals who retain customary leasehold rights.

**Manufactured Home Site:** A property within a manufactured home community, designed to accommodate a single manufactured home.

**Manufacturing, Heavy:** A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Examples of heavy manufacturing uses include the following: chemical product manufacturing; concrete, gypsum, and plaster product manufacturing; glass product manufacturing; paving and roofing materials manufacturing; petroleum refining and related industries; plastics, other synthetics, and rubber product manufacturing; primary metal industries; pulp and pulp product manufacturing; textile and leather product manufacturing.

**Manufacturing, Light:** A facility accommodating manufacturing processes involving less intense levels of fabrication and/or production such as the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. The premises may include secondary retail or wholesale sales. Examples of light manufacturing uses include: artisan/craft product manufacturing; clothing and fabric product manufacturing; furniture and fixtures manufacturing, cabinet shop, media production, photo/film processing lab not accessory to a retail business, printing & publishing, and food preparation and packaging.

**Marihuana Establishment:** An operation that is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act.

**Marihuana Facility:** An operation that is defined and used in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act.

**Marijuana:**

- A. **Marijuana, also known as Marihuana, also known as Cannabis:** The term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marijuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.
- B. **Marijuana Collective, Cooperative or Dispensary:** Any facility, structure, dwelling or other location where medical marijuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law I, MCL 333.26421 et seq. (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to an individual registered primary caregiver that provides necessary care and medical marijuana for



medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marijuana collective, cooperative or dispensary" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirm; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan.

- C. **Marijuana Dispensary or Dispensary:** See *Marijuana Collective, Cooperative or Dispensary*.
- D. **Medical Use of Marijuana:** The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq.

**Medical or Dental Office or Clinic:** A facility where medical, dental, chiropractic, mental health, surgical and/or other personal medical care services are provided on an outpatient basis within an individual office suite or building.

**Micro-Brewery:** A facility, equipment and premises for the brewing, production and sale of beers, including ales, meads and similar alcoholic beverages, operated by a micro-brewer licensed by the Michigan Liquor Control Commission to brew, produce and sell such alcoholic beverages in quantities not exceeding those permitted by the Michigan Liquor Control Code.

**Migrant Worker Housing:** A tract of land and all vehicles, buildings, dwellings, or other structures pertaining to it, part of which is established, occupied, or used as living quarters for migratory laborers engaged in agricultural activities, including related food processing.

**Mineral Extraction:** The extraction, by mining, of natural resources from underground.

**Mixed Uses:** Residential use permitted along with an allowed non-residential use.

**Mobile Home:** A manufactured home.

**Motel.** See definition for "Hotel or Motel."

**Motor Home:** See *Recreational Vehicle*.

## Section 2.8 Definitions N – O

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**Nonconforming Structure:** A building or any of its parts, lawfully existing on the effective date of this Ordinance, or its subsequent amendment that does not conform to the current provisions of the district in which it is located.

**Nonconforming Lot:** A lot lawfully existing on the effective date of this Ordinance, or its subsequent amendment, that does not meet the current area and/or dimensional requirements of the zoning district in which it is located.

**Nonconforming Use:** A use or activity lawfully existing on the effective date of this Ordinance, or its subsequent amendment, that does not conform to the current use provisions of the Zoning Ordinance.

**Nursery School:** See *Day Care Facility*.

**Nursing Home:** A facility licensed as a "nursing home" by the State Department of Public Health under Article 17 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.2010 et seq., MSA 14.15 (20101) et seq.), as amended. A "nursing home" shall include an extended care facility and a convalescent home.

**Off-Street Parking Lot:** A facility providing parking spaces for more than three vehicles, other than in connection with a single-family dwelling, along with adequate drives and aisles for maneuvering and access.

**Open Space:** A parcel, or area of land or water, that may or may not be improved and that is reserved for public or private use.

**Open Space Development.** A single family residential development in which the lots are clustered to retain at least 50 percent of the total land area in permanent open space, as provided in MCL 125.3506 of the Michigan Zoning Enabling Act.

**Outdoor Display and Sales Accessory to a Principal use, Permanent:** The permanent and long-term outdoor placement, storage or keeping, for display purposes, of equipment, vehicles, trailers and other similar goods for sale on a premises (excluding vehicle sales).

**Outdoor Storage Accessory to a Principal Use:** The outdoor placement of building or construction materials, landscape materials, equipment, trailers, items temporarily stored outside prior to being displayed for sale, and other supplies, for future use, production, assembly, preservation or disposal. This definition does not include materials related to permitted on-site construction projects.

**Outdoor Storage as a Principal Land Use:** The outdoor placement of building or construction materials, landscape materials, equipment, trailers, and other supplies, for future use, production, assembly, preservation or disposal, where there is no other principal use or principal building on the site.

## Section 2.9 Definitions P – Q

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**Parking as a Principal Land Use:** A site solely established as a parking lot with no other principal use or principal building or structure on the site.

**Parking Lot:** A facility providing parking spaces, along with adequate drives, aisles, and maneuvering space, to allow unrestricted ingress and egress to at least two vehicles.

**Parking Space:** A space used to park a motor vehicle.

**Patio:** An uncovered at-grade courtyard or outdoor platform.

**Personal Service Establishment:** A business providing services involving the care of a person or the care or repair of personal goods, apparel or other personal items. Personal service establishments do not include marijuana provisioning centers or other medical marijuana facilities, whether or not licensed, nor the providing of medical marijuana by a primary caregiver to a qualified patient or other use or activity involving the medical use of marijuana, nor do they include medical, dental, chiropractic, mental health, surgical and/or other personal healthcare or medical care services.

**Personal Trailer:** A wheeled vehicle that is not self-propelled, but capable of transporting contents. It is designed to be towed by a motor vehicle, but not designed or intended to be used as a living quarters.

**Planning Commission:** The Byron Township Planning Commission.

**Plat:** A map of a subdivision of land, recorded with the Register of Deeds pursuant to the Subdivision Control Act, PA 288 of 1967, Land Division Act, PA 591 of 1996 (MCL 560.101 et seq.), as amended.

**Portable Storage Container (PSC):** A box-like container typically delivered by truck, used to temporarily store household or other goods and items. A PSC does not include a truck trailer, or other part of a motor vehicle, nor any type of wheeled vehicle or conveyance except when attached to a truck for delivery and removal.

**Principal Building:** The building in which a Principal Use is located.

**Principal Use:** The primary use to which a premises is devoted.

**Private Recreation:** A recreational facility for the exclusive use of members of a neighborhood association or organization and their guests. In addition to recreation use, social, educational, or cultural activities may also occur as accessory uses.

**Public Building and Utility Facility:** Any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, or a facility under the same ownership that serves a public utility function.

**Public Park and Playfield:** A facility providing a variety of outdoor recreational opportunities including, but not limited to the following: playground equipment, playing fields, tennis and basketball courts, swimming pools, boat ramps, and fishing piers, and areas for passive recreation such as hiking trails, picnic areas and bird blinds.

**Public Recreation Facility, Indoor:** A publicly accessible facility providing a variety of indoor recreational opportunities including, but not limited to the following: gymnasium, swimming pool, tennis, racquetball and/or handball courts, batting cages, and other indoor sports activities. This use includes all public, government, and not-for-profit organizations chartered to provide community-based recreation services.

## Section 2.10                      Definitions R – S

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**Radio and Television Broadcasting Station:** An establishment consisting of a studio, transmitter and antennas engaged in transmitting audio or video programs to the public.

**Recreation Facility, Indoor (Commercial):** A facility, open either to the general public or to members and their guests, located in an enclosed building that is designed to accommodate sports, recreational activities, training or related enterprises. Also included are accessory uses that are clearly in support of the primary use, such as sporting goods shops, food service and party/banquet facilities serving patrons of the indoor recreation use, spectator accommodations, changing/locker rooms and employee offices.

**Recreation Facility, Outdoor (Commercial):** A recreation facility operated primarily for outdoor recreation uses, and related buildings and structures that are accessory to the primary outdoor nature of the activities. Included are golf courses and related support facilities, court games, field sports, shooting ranges, winter sports, swim clubs, campgrounds and resorts, or combination of such uses.

### **Recreational Vehicle/ Recreational Unit:**

- A. **Recreational Vehicle:** A travel, camping or tent trailer; motor home; truck camper or similar vehicle designed primarily as temporary living quarters for recreational, camping or travel use. It is either self-powered or mounted on or drawn by another vehicle. It does not include a manufactured home.
- B. **Recreational Unit:** A vehicle used primarily for recreation, such as a boat, jet ski, snowmobile, all-terrain vehicle, dune buggy or similar vehicle or equipment. A recreational unit mounted on a personal trailer is considered a single recreational unit.

**Recreational Vehicle Sales and Leasing:** An operation which sells, leases, or rents recreational vehicles and units. The use may also include accessory repair shops, detailing services, washing, and the sales of parts and accessories incidental to dealerships.

**Recycling and Transfer Station:** A site used for collecting waste and recyclables, sorting and transferring materials.

**Restaurant:** A business establishment whose method of operation involves either the delivery of prepared food by servers to customers seated at indoor or outdoor areas, or prepared food is acquired

by customers at a counter or cafeteria line and consumed at indoor or outdoor areas. This definition does not include a food truck.

**Restaurant, Drive-In:** A restaurant establishment whose primary business is taking orders and serving food to the public for consumption on the premises in a parked vehicle. Incidental outdoor seating may be available. The establishment may also operate as a restaurant as defined by this Section.

**Restaurant with Drive-Through:** A restaurant establishment that include services to customers in motor vehicles, typically through a drive-through window, for consumption off the premises. The establishment may also operate as a restaurant as defined by this Section.

**Retention Pond:** A storm water management facility consisting of a depression in the ground designed to collect and hold surface runoff water.

**Roadside Stand:** A structure for the display and sale of agricultural products grown on-site or off-site in accordance with the State of Michigan's Generally Accepted Agricultural and Management Practices for Farm Markets, with no space for customers within the structure itself.

**Sanitary Landfill:** Land designed, developed and operated for the disposal of solid waste in a manner consistent with criteria established by Act 641 of the Michigan Public Acts of 1978, as amended, and any related rules and regulations.

**Sawmill or Planing Mill:** A facility where logs are sawn, split, shaved, stripped, chipped, or otherwise processed to produce lumber and other wood products.

**School:**

- A. **School, College or University:** A facility for post-secondary education, other than a trade or commercial school, that provides education, whether full-time or part-time, and that grants associates, bachelors, masters, or doctoral degrees, and may include research functions. Includes professional schools (law, medicine, etc.) and technical colleges.
- B. **School, Private or Parochial K-12:** A school that is not a publicly owned or publicly operated school that offers courses of instruction for students in one or more grades from kindergarten through 12th grade.
- C. **School, Trade or Commercial.** A specialized instruction establishment that provides individual and group instruction, education, and/or training, including, but not limited to: the arts, dance, music, tutoring, photography, martial arts, health and wellness, business and vocational schools, passenger vehicle driver education schools, barbering, hairdressing, appliance and computer repair, and teaching of industrial or trade skills which machinery is employed as a means of instruction.
- D. **School, Truck Driving:** Commercial facilities which provide instruction and education concerning the driving of trucks.

**Screening or Buffering:** A way of visually shielding or obscuring one abutting or nearby structure or use from another, using a fence, wall, berm or vegetation.

**Self-Storage Facility:** A building or a group of buildings in a controlled-access compound where individual compartments, stalls, or lockers are rented out to tenants to store goods.

**Semi-Truck and Heavy Truck Sales and Leasing:** An operation which sells, leases, or rents semi-trucks and trailers. The use may also include accessory repair shops and the sales of parts and accessories incidental to dealerships.

**Service Area:** An outdoor area related to a nonresidential use that is used for loading and unloading operations and to receive and temporarily store goods, materials and equipment.

**Setback:** The minimum required horizontal distance, measured from the lot lines.

- A. **Front Setback Line.** The line marking the required setback from the road right-of-way or road easement, which establishes the required front yard setback.
- B. **Rear Setback Line.** The line marking the required setback distance from the rear lot line, which establishes the required rear yard.
- C. **Side Setback Line.** The lines marking the required setback distance from the side lot lines, which establishes the required side yards.
- D. **Secondary Front Setback Line.** For a corner lot, the line marking the required setback from the road right-of-way or road easement, which establishes the required front yard setback for the secondary front yard. The secondary front setback is applied to (a) the wider of the two corner lot road frontages, if no building exists on the lot, or (b) the road frontage which the front building elevation does not face, if a building exists on the lot.

**Sign:** A device, structure, fixture or placard, which may or may not use graphics, symbols and/or written copy designed specifically to advertise or identify an establishment, product, service or activity. See *Chapter 12.4 for detailed definitions.*

**Single Ownership:** A parcel of land in separate and distinct ownership from adjacent parcels.

**Site Plan:** A plan of a proposed project that shows all relevant features necessary to determine if it meets the requirements of this Ordinance.

**Solar Energy Collector, Building Mounted:** A solar energy collector attached to the roof or wall of a building.

**Solar Energy Collector, Ground Mounted:** A solar energy collector that is mounted directly to a support structure on the ground and is not connected to a building. The system is intended to generate energy for the principal and accessory land uses and buildings on the lot or parcel of land on which the system is located.

**Stables, Commercial:** A structure designed for the feeding, boarding, breeding, and exercising of horses that are owned by someone other than the owner of the premises, and for which the owner of the premises receives compensation. This definition also includes riding stables, riding academies, and horse show facilities.

**Stables, Private:** A structure designed for the feeding, boarding, breeding, and exercising of horses that are owned by the occupant of a principal dwelling on the premises.

**Story:** The part of a building, except a mezzanine level, that is between the surface of one floor and the surface of the next floor. If there is no floor above then a story is the space between the floor and the above ceiling. *See also basement.*

**Story, Half:** The uppermost habitable story under a sloped roof with a usable floor area that does not exceed 75 percent of the floor area of the story immediately below.

**Street:** A public or private thoroughfare, used or intended to be used for passage or travel by motor vehicles. "Street" also includes the term "Road."

- A. **Street, Private:** A privately owned and maintained street serving three or more lots, parcels, buildings or dwellings, and constructed on a privately owned easement.
- B. **Street, Public:** An easement, right-of-way or other interest that has been conveyed to and accepted by a governmental body for the purpose of providing access to abutting land.

**Structure:** Anything constructed or erected requiring a permanent location in, or on the ground, or that must be attached to something having such a permanent location. Structures include, but are not limited to: parking lots; access drives; buildings; swimming pools and signs.

**Swimming Pool:** A basin or structure designed to hold water for aquatic recreation; not including temporary, portable pools located upon the ground, and holding less than 300 gallons of water, or decorative pools less than two feet deep.

## Section 2.11 Definitions T – U – V

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**Tavern:** A commercial establishment licensed to serve beer, wine, liquor or other alcoholic beverages for consumption on the premises and where the service of food is incidental to the sales and consumption of such beverages. Taverns include nightclubs, lounges, and bars.

**Telecommunication Tower:** A freestanding structure or one that is attached to another structure, supporting one or more antennas for telephone, radio or other communication.

**Theater, Indoor:** A building or part of a building use to show movies or a facility used for drama, dance, musicals, or other live performances. This use may also include accessory concession and retail sales.

**Township:** The Township of Byron, Kent County, Michigan.

**Township Board:** The Byron Township Board of Trustees, the legislative body of the Township.

**Truck Stop:** A business establishment, usually located along a highway or freeway interchange, that specializes in providing fuel, oil, and related items for large trucks and may include a restaurant, sale of convenience items and showering facilities.

**Use:** Any purpose for which land or a structure is designed, arranged, intended, used, maintained or occupied.

- A. **Accessory Use:** A use customarily incidental and subordinate to the principal use of the structure or premises.
- B. **Use Permitted By Right:** A principal or accessory use that because of its nature is allowed, as regulated, within a specified zoning district.
- C. **Principal Use:** The primary purpose for which land or a structure may be used.
- D. **Temporary Use:** A use or activity that may be permitted for a limited time and that may be subject to specific regulations.

**Variance:** An allowed modification to the requirements of this Ordinance, as authorized by the Zoning Board of Appeals under the provisions of this Ordinance and Act 207 of the Public Acts of 1921, as amended.

**Vehicle Repair:** The servicing, repairing, refinishing, equipping or adjusting of vehicles, or their components, for compensation. This Ordinance recognizes two classes of vehicle repair:

- A. **Vehicle Repair, Major:** The servicing, repairing, refinishing, equipping or adjusting of vehicles, or their components, for compensation, including but not limited to powertrain and suspension repair or rebuilding, body work, frame alignment and other vehicle repair work creating noise, glare, fumes or smoke; but not including vehicle wrecking, junking or salvaging or fuel sales.
- B. **Vehicle Repair, Minor:** The servicing, repairing, refinishing, equipping or adjusting of vehicles, or their components, for compensation, including but not limited to oil changes, tire installation and rotation, battery installation, other minor repairs that do not qualify as major vehicle repair.

**Vehicle Sales and Rental:** The use of a building, property or other premises for the display and sale or rental of passenger vehicles and trucks. The use may also include accessory repair shops, detailing services, washing, and the sales of parts and accessories incidental to dealerships.

**Vehicle Wash Establishment:** A building with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of vehicles. This use may also include accessory outdoor vacuums.

**Veterinary Hospital:** An establishment that admits animals for examination and treatment. This use may include grooming as an accessory use.

## Section 2.12 Definitions W – X – Y – Z

**Warehousing and Distribution:** Facilities for redistributing goods from one truck to another that serve as intermediate transfer points and are primarily used for staging loads and temporary storage, where vehicles and trailers are regularly maintained and stored.

### Wind Energy Conversion System (WECS),

**Accessory:** A structure-mounted system that converts wind energy into electricity through to service the energy needs of only the structures and uses on the same lot or parcel. A wind energy conversion system (see Figure 2-3) is a combination of:

1. A surface area (typically a blade, rotor or similar device), either variable or fixed, for utilizing the wind for electrical power; and
2. 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
3. The generator, alternator or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
4. The tower, pylon, building mount or other structure upon which any, all or some combination of the above are mounted.
5. Other components not listed above, but that are associated with the normal construction, operation and maintenance of a WECS.
6. A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground or a vertical axis, with a rotor that spins parallel to the ground.

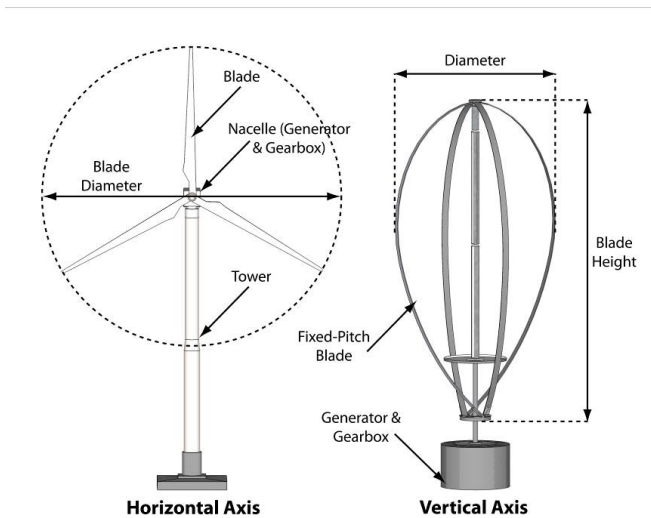


Figure 2-3 WECS

**WECS Height:** The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position). The height of a building mounted WECS shall be measured from the grade of the building upon which it is attached.

**On-site Service WECS:** A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.

**Winery:** A facility, equipment and premises for the manufacture, production and sale of wine operated by a wine maker licensed by the Michigan Liquor Control Commission.

**Winery, Farm:** A winery licensed as a small wine-maker as defined by the Michigan Liquor Control Commission that is located on a farm property in which a portion of the ingredients used in the wine-making process are grown on-site.

**Winery, Small:** A facility, equipment and premises for the manufacture, production and sale of wine, operated by a small wine maker licensed by the Michigan Liquor Control Commission to manufacture, produce and sell wine in quantities not exceeding those permitted by the Michigan Liquor Control Code.

**Yard:** The open spaces on a lot located between a building and a lot line.

- A. **Yard, Front:** The space extending the full width of the lot, the depth of which is the furthest horizontal distance between the public road right-of-way or private easement and the actual building line of the principal building. In the case of a through lot, it shall have one front yard. A corner lot or multi-frontage lot has two front yards.
- B. **Yard, Rear:** The space extending the full width of the lot, the depth of which is the furthest horizontal distance between the rear lot line and the building line of the principal building. A through lot is not considered to have a rear yard.
- C. **Yard, Secondary Front:** A front yard on a corner lot that the front building elevation does not face which extends from the rear of the front yard designation to the rear lot line.
- D. **Yard, Side:** The space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the furthest horizontal distance from the side lot line to the nearest building line of the principal building.

**Zoning Act:** The Michigan Zoning Act, Public Act 110 of 2006, as amended.

**Zoning Administrator:** The person designated by the Township Board to administer the Zoning Ordinance.

**Zoning Board of Appeals:** The Byron Township Zoning Board of Appeals.

**Zoning District:** A portion of the Township within which certain uses of land or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.



# Chapter 3 General Provisions

## Section 3.1 Scope of Chapter

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The general provisions shall apply to all Zoning Districts, unless otherwise stated.

## Section 3.2 Uses

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- A. **Unlawful uses and buildings.** Any building, use or lot that has been unlawfully constructed, occupied or created prior to the adoption date of this Ordinance shall continue to be unlawful, unless expressly permitted by this Zoning Ordinance. Unlawful buildings, uses or lots shall not be considered nonconforming buildings, uses or lots of record.
  
- B. **Principal uses and buildings per lot.** A lot or parcel shall not be devoted to more than one principal use or contain more than one principal building. Exceptions are allowed for mixed uses, where permitted by this Ordinance, or groups of multiple family buildings, or retail, industrial or agricultural buildings that are determined by the zoning administrator to be a principal use collectively, based on the following characteristics:
  - 1. Individual buildings that share common parking areas;
  - 2. access to the buildings/uses is provided via shared access drives or streets;
  - 3. the lot is used on a condominium basis and complies with all applicable provisions of this Ordinance;
  - 4. individual activities support one another (such as auto dealership/vehicle repair or a convenience store/restaurant/gas station), unless it is a mixed commercial and residential use allowed by this Ordinance; or
  - 5. the buildings are architecturally consistent and compatible.
  
- C. **Similar uses**
  - 1. Since every potential use cannot be addressed in this Ordinance, each district may accommodate similar uses, as referenced in this section. All applications for a use not specifically addressed in a zoning district shall be submitted to the zoning administrator for review and a decision, based on the following:
    - a. The zoning administrator shall first find that the proposed use is not listed as a permitted or special land use in any other district.
    - b. If the use is not permitted elsewhere, the zoning administrator shall review the district purpose, permitted uses and special land uses in the zoning district to determine if the proposed use is consistent with the district purpose and is similar to other allowed uses relative to its character, scale and overall compatibility. objectionable impacts on public health, safety and welfare associated with the proposed use.
    - c. The use would not be more appropriate within a different zoning district.
  - 2. If a proposed use is determined to be similar to other uses listed within the district and is consistent with the district’s purpose, the proposed use shall comply with all the standards or requirements associated with the listed use(s).

3. The zoning administrator may, in his/her sole discretion, submit a proposed use to the Zoning Board of Appeals for a similar use determination.
4. If either the zoning administrator or Zoning Board of Appeals determines that a proposed use is not similar to a listed use, the applicant may petition to amend the Zoning Ordinance to include the use.
5. The determination of whether a proposed use is similar to another listed use shall be considered as an interpretation of the use regulations and not a use variance. Once a use has been determined to be similar, it shall be deemed to be included in the list of uses, as regulated.

**D. Keeping of domesticated and household animals, non-commercial**

1. The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any residential district; provided, no more than three dogs, cats or combination of dogs and cats, six months of age or older, shall be kept or housed in or at one dwelling unit.
2. Any area where household pets are kept shall be maintained in a safe and sanitary condition.
3. The keeping of wild animals is prohibited.

**E. Keeping of farm animals and chickens, non-commercial**

1. Authorization to keep farm animals and chickens requires Zoning Administrator approval. Along with an application provided by the Township and payment of required fees, an applicant shall submit a scaled site plan drawing showing the location of any animal enclosures, accessory buildings and their distance from all lot lines. In addition, a description of the enclosure and an explanation of how all requirements will be met must be included. If all requirements are not satisfied, the Township shall deny the authorization request. If the authorization has already been issued, the Township may revoke any permit granted under this subsection or take enforcement action or both.
2. The following standards apply to the keeping of farm animals, except chickens:
  - a. The minimum lot size to keep one such animal shall be two acres. This requirement does not apply to R-A zoned land.
  - b. Each animal in excess of one shall require an additional one-half acre up to a maximum 5 animals. This requirement does not apply to R-A zoned land.
  - c. An accessory building where such animals are kept shall be located in a rear yard, at least sixty (60) feet from a property line or a public right-of-way or private street easement.
  - d. A fence (see requirements in Section 3.4.I.), or containment system sufficient to keep animals from leaving a property shall be provided and maintained.
  - e. Manure and waste storage areas shall be at least 75 feet from a dwelling, wellhead, pond, creek or other water feature and 25 feet from a property line.
3. Where a stable, pen, paddock or other confinement area abuts property located in a platted subdivision or site condominium, or any residentially-zoned property on a lot less than 2 acres, all confinement areas shall be at least 60 feet from the shared lot line, or the setback requirement of the zoning district, whichever is greater.

4. **Keeping of chickens.** The keeping of chickens shall be permitted in the R-A, R-R, R-S, and R-U Districts, but only as an accessory use to a single-family dwelling, subject to compliance with Section 3.2.E.5 and the following requirements:
- a. No more than six chickens may be kept on a lot. This limit does not apply in the R-A District.
  - b. Only non-crowing hens shall be permitted. Roosters and crowing chickens shall not be permitted.
  - c. Chickens shall be provided with a covered enclosure and shall be kept in the covered enclosure at all times, except that chickens may be allowed outside of the covered enclosure if within a fully fenced area within the rear yard. It shall be a violation of this ordinance to have chickens outside of the required covered enclosure or fenced area.
  - d. All covered enclosures shall comply with Section 3.4, governing accessory buildings and structures. Covered enclosures shall not be located closer than 10 feet to any property line or closer than 30 feet to any residential dwelling on an adjacent property. Except in the R-A District, where more than six chickens are permitted, covered enclosures shall not exceed 36 square feet in size. All covered enclosures shall be elevated a minimum of 18 inches off the ground. Enclosures shall not be constructed of tarps, plastic, fabric, rubber, paper, cardboard, or other non-traditional building materials and shall be constructed in a manner that shall prevent rats, mice, or other rodents or vermin.
  - e. Appropriate feeder containers shall be used for all feeding and water and all unused and unconsumed food shall be adequately secured and stored after every feeding to prevent access by rats, mice, or other rodents or vermin. All feed and other items associated with the keeping of chickens shall be secured and protected in sealed containers.
  - f. Sanitary conditions shall be maintained. Any person keeping chickens shall keep or cause to be kept all manure or offal from such chickens securely and closely confined to or buried upon the premises, and shall prevent such material from being scattered on the land or deposited into or upon any street, sidewalk, alley, gutter, storm drain, ditch, lake, wetland, or waterway, and such persons shall so cover and care for the chicken manure, offal and waste as to prevent any malodorous or offensive condition to exist and prevent any nuisance to arise therefrom, except that persons shall be permitted to use chicken manure as compost on their property provided that such composting is done in a manner that does not create an offensive or malodorous condition.
  - g. Any person keeping chickens shall not permit the chickens to become a nuisance or to violate any Township codes and ordinances, including ordinances governing noise, odor and blight.
  - h. In addition to the municipal civil infraction fines provided in the Zoning Ordinance, if notice has been served upon the Applicant to remove one or more chickens, the Township may assess a fine of Five Dollars (\$5.00) per bird per day for each chicken that has not been removed. A fine of Five Dollars (\$5.00) per bird per day may also be assessed for each chicken that is outside of the enclosure or fenced area. These fines are separate from the Zoning Ordinance Enforcement penalties normally in effect.

#### F. Essential services

1. Essential services are permitted in all zoning districts, except that essential service buildings, electrical substations, natural gas regulator stations and similar facilities are subject to approval by the Planning Commission as special land uses under *Chapter 9*.

2. Essential services and essential services buildings shall be constructed and maintained in a neat and orderly condition. Essential services building shall comply with screening and landscaping requirements, as applicable.

G. **Home occupations.** Home occupations are permitted in all zoning districts as an accessory use to a dwelling unit. However, a medical use of marijuana home occupation must also comply with *Section 3.2.H* and the related provisions of this section.

1. Must be conducted entirely within a dwelling unit and not an accessory building, except for a medical use of marijuana home occupation.
2. Up to 20% of the floor area of a dwelling, or 300 square feet, whichever is less, may be devoted to a home occupation.
3. There shall be no evidence from the exterior of the dwelling, other than the presence of a permitted sign, of the conduct of the home occupation.
4. Shall not change the character of the dwelling in which it is conducted, nor shall it constitute, create or increase a nuisance.
5. The sale of commodities on the premises is not permitted.
6. Shall be carried out only by the inhabitants of the dwelling, plus not more than one non-resident employee.
7. Only mechanical equipment typically used for household purposes and hobbies shall be used. The use of any equipment that negatively affects the insurance rating of the property is prohibited.
8. One professional name-plate wall sign, not exceeding four square feet, may be displayed on the exterior of the dwelling, except for medical use of marijuana home occupations. (See *Section 3.2.H.*).

H. **Medical use of marijuana.** The acquisition, possession, cultivation, use, delivery or distribution of marijuana to treat or alleviate a debilitating medical condition is prohibited except in compliance with the Michigan Medical Marijuana Act (“MMMA”) of 2008 and applicable provisions of the Township Zoning Ordinance.

1. A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA and the requirements of this subsection, shall be permitted as a home occupation, as regulated by this subsection. The Township makes the following findings, in support of its determination that the regulation of registered primary caregivers as a permitted home occupation is consistent with the purposes and intent of the MMMA:
  - a. The MMMA does not create a general right for individuals to use, possess, or deliver marijuana in Michigan.
  - b. The MMMA’s protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals’ marijuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregivers.
  - c. The MMMA’s definition of “medical use” of marijuana includes the “transfer” of marijuana “to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition,” but only if such “transfer” is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the Department of Licensing and

- Regulatory Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.
- d. The MMMA provides that a registered primary caregiver may assist no more than five qualifying patients with their medical use of marijuana.
  - e. The MMMA does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marijuana to more than five persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of qualifying patients.
  - f. The health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as a home occupation, because this allows qualifying patients who suffer from serious or debilitating medical conditions or symptoms to obtain the benefits of the medical use of marijuana in a residential setting, without having to unnecessarily travel into commercial areas.
  - g. By permitting the operations of registered primary caregivers as a home occupation, rather than in a commercial setting, this promotes the MMMA's purpose of ensuring that (i) a registered primary caregiver is not assisting more than five qualifying patients with their medical use of marijuana, and (ii) a registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal commercial operation, in the nature of a marijuana collective, cooperative or dispensary.
2. The following standards and requirements shall apply to the location at which the medical use of marijuana is conducted by a primary caregiver.
- a. The medical use of marijuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
  - b. A registered primary caregiver shall not possess marijuana, or otherwise engage in the medical use of marijuana, in a school bus, on the grounds of any preschool or primary or secondary school, or in any correctional facility.
  - c. Not more than two registered primary caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one property.
  - d. The medical use of marijuana shall be conducted entirely within a dwelling or attached garage, except that a registered primary caregiver may keep and cultivate, in an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marijuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marijuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.
  - e. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marijuana is taking place on the premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
  - f. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marijuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.
  - g. Distribution of marijuana or use of items in the administration of marijuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residence of the primary caregiver to purchase, smoke, consume,

- obtain or receive possession of any marijuana.
- h. Except for the primary caregiver, no other person shall deliver marijuana to the qualifying patient.
  - i. No one under the age of 18 years shall have access to medical marijuana.
  - j. No on-site consumption or smoking of marijuana shall be permitted within the dwelling (or on the property) of a primary caregiver, except for lawful medical marijuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
  - k. Medical marijuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.
  - l. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marijuana are located or used.
  - m. If marijuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
  - n. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver, apart from the permitted quantity of medical marijuana.
  - o. To ensure compliance with all applicable requirements and laws, the portion of a building or other structure, such as a cultivation room, where energy use and heating requirements exceed typical residential limits and chemical storage occurs, are subject to inspection and approval by the zoning administrator or other authorized official.
  - p. The property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official or law enforcement official.
3. The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a Township permit.
- a. A complete and accurate application shall be submitted on a form provided by the Township and an application fee in an amount determined by resolution of the Township Board shall be paid.
  - b. The permit application shall include the name and address of the applicant; the address of the property; proof, such as a driver's license, voter registration card or similar record showing that the dwelling is the applicant's full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marijuana cultivation and processing; and a description of the location at which the use will take place. The zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The zoning administrator shall review the application to determine compliance with this Ordinance, the MMMA and the MMMA General Rules. A permit shall be granted if the application demonstrates compliance with this Ordinance, the MMMA and the MMMA General Rules.
  - c. The use shall be maintained in compliance with the requirements of this Ordinance the MMMA and the MMMA General Rules. Any departure shall be grounds to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted.
  - d. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the

primary caregiver, which is received by the Township, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.

4. It is unlawful to establish or operate a for-profit or nonprofit marijuana dispensary, collective or cooperative within the Township, even if such use is intended for the medical use of marijuana.
5. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marijuana in accordance with the MMMA, solely for personal use, does not require a permit under this subsection; however, all applicable state and Township ordinance requirements must be met.
6. The provisions of this subsection do not apply to the personal use and/or internal possession of marijuana by a qualifying patient in accordance with the MMMA, for which a permit is not required.

#### I. **Marihuana establishments prohibited**

1. Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance.
2. Any and all types of “marihuana facilities” as described in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act are completely prohibited in the Township and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.
3. Nothing in this Section 3.2.I shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.

### **Section 3.3                      Dimensional Requirements**

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- A. **Front setbacks.** A yard that abuts a public street right-of-way or private street easement shall be considered a front yard for setback purposes, except as provided for accessory buildings on double frontage lots.
- B. **Minimum lot frontage**
  1. An existing lot with a building, dwelling unit or structure, except a farm building, shall front on a public street, private road or approved access easement at least equal to the minimum lot width required for the district.
  2. A lot created after the effective date of this Ordinance shall have frontage of at least 40 feet in length on a public or private street or a private drive or access easement meeting the private street requirements of *Section 3.8*.
- C. **Lot width on County primary roads**
  1. Any lot, except those in the B-1 District, with frontage on a county primary road, as classified in the adopted Community Master Plan, shall meet the minimum width requirements for the district in which it is located along that road, but in no case have less than 130 feet of width.

2. Except as provided below, minimum lot width shall be measured along the front lot line and shall be maintained for the entire depth of the lot or 250 feet from the front lot line, whichever is less.
  3. The minimum lot width for a lot fronting on a cul-de-sac street shall be measured at the required front setback line and shall be maintained for the remaining depth of the lot or 250 feet from the front setback line, whichever is less. The front lot line of a cul-de-sac lot shall be at least 40 feet wide.
  4. For an existing irregularly-shaped lot, which does not meet the minimum width requirements of the district in which it is located, the minimum lot width shall be measured as follows:
    - a. A line that connects the side lot lines shall be drawn parallel to the front lot line and that line shall be at least equal to the minimum lot width required in that district. The minimum lot width shall not be reduced for a distance of 250 feet within the lot.
    - b. That line shall be used as a base line to compute the required front yard. An irregular lot shall have at least 40 feet of frontage on a public street and the width of the lot, between the front lot line and the base line, shall not be less than 40 feet. New lots shall not be created unless they meet standard lot width and area requirements per other sections and subsections of the Zoning Ordinance
- D. **Projections into required setbacks.** Certain architectural elements such as a cornice, bay window (or a window without a foundation), gutter, chimney (attached to a building), and similar features may project by no more than three feet into a required front or rear yard setback, but not into a required side yard setback. Handicap access ramps may extend up to five feet into a front or rear yard setback, but not into a required side yard setback.
- E. **Required yards or lots.** A lot or lots in common ownership, yard, court, parking area or other space shall not be divided, altered or reduced to make it less than the minimum size required by this Ordinance. If already less than the minimum required size, the area shall not be further divided or reduced.
- F. **Lot area computation.** Unless otherwise specified, all minimum lot area requirements for parcels of less than four acres shall be met by computing the lot area, exclusive of public rights-of-way or private street easements; and shall be further computed exclusive of any area within 60 feet of the centerline of any county primary road or within 43 feet of the centerline of any county local road, as classified in the adopted Community Master Plan.
- G. **Maximum lot width to depth ratio.**
1. The depth of a lot or parcel shall not exceed four times its width unless it is over 10 acres (see the definition for “lot depth” and “lot width” in Section 2.7).
  2. In cases of exceptional topographic or physical conditions, such as wetlands, waterbodies, steep slopes, and stormwater retention or detention areas, or if a parent parcel is an irregular shape, the Township may approve a greater depth to width ratio as long as the resulting parcel(s) or lot(s) remain compatible with surrounding lands. The Zoning Administrator may approve greater ratios for parcels created through land divisions and the Township Board may approve greater ratios for lots as part of tentative preliminary plat review.
- H. **Height exceptions**
1. Except as provided, a building or structure shall not be erected or altered to exceed the permitted height of the zoning district in which it is located.



2. Farm buildings and related structures such as barns, silos and grain elevators shall be exempt from height regulations in all districts.
3. Structures appurtenant principal buildings including, but not limited to, parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances and HVAC or similar equipment on the roof of the building may exceed the district height limitations; provided parapet walls shall not exceed the height limit by more than four feet.
4. If an appurtenant structure or tower exceeds the height requirements of the zoning district in which it is located, the required side-yard setbacks shall be increased by at least one foot for each one foot the structure exceeds the allowed height.

**I. Corner clearance and visibility**

1. Fences, walls, structures or vegetation shall not be erected, established or maintained on a corner lot that will obstruct the view of a driver in a vehicle approaching the intersection.
2. At a street intersection, an unobstructed corner shall mean the triangle formed by a line connecting two points, located on the intersecting right-of-way lines, measured 25 feet from their point of intersection.
3. At a driveway/street intersection, a fence, wall, structure or vegetation shall not be erected, established or maintained where it will obstruct vision between a height of three and ten feet within a triangle formed by the intersection of the right-of-way line and a driveway. This triangle is defined by a line connecting two points - one located on the right-of-way line and the other on the edge of the driveway. The two points shall be located 15 feet from the intersection point of the right-of-way line and the edge of the driveway.

## **Section 3.4 Buildings and Structures**

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**A. Demolishing and moving buildings**

1. A building shall not be razed, demolished or torn down unless a permit has first been issued by the Township zoning administrator. A building shall not be moved unless such moving has been approved by the Zoning Board of Appeals pursuant to Article IV, Moving of Buildings, of Chapter 10 of the Township Code of Ordinances, and a permit for such purpose has been issued by the Zoning Board of Appeals. The razing, demolition or tearing down of a building shall fully comply with the permit issued by the Zoning Administrator; the moving of a building shall fully comply with the building moving permit issued by the Board of Appeals.
2. A performance bond or letter of credit shall first be provided to the Township in an amount determined by the Zoning Board of Appeals, with respect to the moving of buildings, or in an amount determined by the zoning administrator, with respect to the razing, demolition or tearing down of a building. The performance bond or letter of credit shall be conditioned upon faithful and timely compliance of the terms of the permit.
3. A permit may include provisions to address such matters as terminating utility services; prohibiting burial of construction materials; removal of foundations; disposal of septic tanks, underground storage tanks and other below-ground structures and their contents; site and building plans; grading plans; schedule; routing and other matters.

## **B. Accessory buildings and structures**

1. Accessory buildings and structures are only permitted in accordance with this section and as otherwise stated in this Ordinance.
2. Accessory buildings are not permitted on any lot or parcel that does not contain a principal building.
3. Accessory buildings shall not contain a residence or living quarters, unless otherwise permitted by this Ordinance.
4. An accessory building or garage shall be considered part of the principal building if it is structurally and architecturally integrated into the principal building, or attached by an enclosed breezeway or similar architectural feature not greater than ten feet in length and shall meet all applicable requirements of the principal building.
5. In the R-A, R-R, R-S and R-U districts; an accessory building shall not be located in any front yard, except that an accessory building shall be permitted in a front yard if it is set back at least 200 feet from the front lot line.
6. Buildings and structures used in agricultural operations are not subject to the accessory building requirements of this section, except as follows:
  - a. Front yard setbacks, in accordance with subparagraph 5 above.
  - b. A building or structure shall not be located within a required yard and any building 1,200 square feet and greater shall be located at least 50 feet from a rear or side lot line, or as required by Generally Accepted Agricultural Management Practices (GAAMPs) as issued by the Michigan Commission of Agriculture.
7. Swing sets, sand boxes, play equipment, garden trellises, dog houses and similar above-ground features accessory to a residential use are exempt from the provisions of this Ordinance, except for height limitations, or unless other specific provisions for such features have been made in this Ordinance.
8. A mobile home, trailer, vehicle, shipping container or similar item shall not be used as an accessory building or storage structure. This requirement does not apply to agricultural storage or other agricultural activities on operating farms, nor does it apply to temporary on-site tool sheds or similar temporary storage structures used during an allowed construction project.

## **C. Residential accessory buildings**

1. Number and square footage. The total number and permitted gross floor area of an accessory building or all accessory buildings, in combination, shall be based on the size of the lot and zoning designation, as provided in Table 3.4.C.1.

**Table 3.4.C.1: Permitted Accessory Buildings: Maximum Permitted Number; Permitted Gross Floor Area Each; Permitted Gross Floor Area of All Accessory Buildings on a Lot or Parcel\***

Lot Area	R-A		R-R		R-S		R-U	
	Bldgs.	Size	Bldgs.	Size	Bldgs.	Size	Bldgs.	Size
less than 10,500 SF	1	650	1	650	1	650	1	120
10,500 SF - 0.99 acre	1	650	1	650	1	650	1	650
1 - 1.99 acres	1	1,700	1	1,400	1	750	1	650
2 - 2.99 acres	1	1,900	1	1,500	1	850	1	650
3 - 3.99 acres	1	2,100	1	1,600	1	950	1	650
4 - 4.99 acres	2	2,500	2	1,800	2	1,100	1	650
5 - 5.99 acres	2	2,900	2	2,000	2	1,250	1	650
6 - 6.99 acres	2	3,300	2	2,200	2	1,400	1	650
7 - 7.99 acres	2	3,700	2	2,400	2	1,550	1	650
8 - 8.99 acres	2	4,100	2	2,600	2	1,700	1	650
9 - 9.99 acres	2	4,500	2	2,800	2	1,850	1	650
10 + acres	3	(1)	3	(1); (2)	2	1,850	1	650

**Notes to Table 3.4.C.1:**

- (1) On parcels 10 acres or more, the Planning Commission may approve an aggregate accessory building floor area of 10,000 sq. ft. or greater if approved as a special land use upon consideration of the criteria stated below in this Note 1. The Planning Commission may approve an aggregate accessory building floor area of 5,000 sq. ft. or greater, but less than 10,000 sq. ft., on a parcel of land, upon consideration of the criteria stated below in this Note 1.
  - a. The intended use for the accessory building(s).
  - b. The size, proposed location, type of construction and general architectural character of the building(s) and its visibility from adjacent roads and properties.
  - c. The size and character of principal and accessory buildings and structures located on adjacent and surrounding properties.
  - d. Proposed setbacks from lot lines and separation from dwellings on adjacent property.
  - e. The reason why the applicant has requested an accessory building(s) of 5,000 square feet or greater.
  - f. Placement of the building(s) on the property in relation to future roads and/or land divisions.
- (2) In the R-R District, 400 additional square feet of gross floor area of accessory building(s) is permitted for each additional acre or portion of an acre in excess of 10 acres.
  2. Accessory Building Height. The sidewalls of any accessory building shall not exceed 14 feet. A height of accessory building sidewalls of no more than 16 feet may be approved for accessory buildings used in a home based business, in the approval of a home based business as a special land use.
  3. Height restrictions. The side walls of any accessory building shall not exceed 14 feet.
  4. Setbacks. The following yard and building requirements apply to residential accessory buildings:

**Table 3.4.C.4: Residential Accessory Building Setbacks**

Accessory Building Size	Setback from <sup>(1)</sup> :			
	Principal Building	Side Lot Line	Rear Lot Line	Other Accessory Buildings
Less than 150 sq. ft.	5 ft.	5 ft.	5 ft.	5 ft.
150 to less than 650 sq. ft.	10 ft. <sup>(2)</sup>	10 ft.	10 ft.	18 ft.
650 to less than 1,100 sq. ft.	15 ft. <sup>(2)</sup>	15 ft.	15 ft.	18 ft.
1,100 sq. ft. to less than 1,500 sq. ft.	25 ft.	25 ft.	25 ft.	18 ft.
1,500 sq. ft. to less than 2,500 sq. ft.	25 ft.	30 ft.	30 ft.	20 ft.
2,500 sq. ft. and greater	25 ft.	50 ft.	50 ft.	50 ft.

Notes to Table 3.4.C.4.

- (1) An accessory building shall not be located closer than twenty five feet to either a public road right-of-way or private street easement. In the R-R District, 400 additional square feet of gross floor area of accessory building(s) is permitted for each additional acre or portion of an acre in excess of 10 acres.
- (2) Detached garages that are 600 sq. ft. or less may be located six feet from a principal building.

5. Exempt residential accessory buildings

- a. A pool house or storage shed with a total floor area of one hundred twenty square feet or less shall not be considered a residential accessory building for the purposes of this section. One such structure shall be allowed on a single lot; any additional pool house or storage shed shall be considered a residential accessory building and must comply with all related requirements for accessory buildings.
- b. The minimum setback requirements for either an exempt pool house or storage shed allowed by this subsection shall be five feet from the principal building, five feet from a side lot line, five feet from a rear lot line. No such pool house or storage shed shall be permitted in any front yard.

**D. Multiple-family residential and manufactured housing community accessory buildings**

- 1. The following requirements apply to the Multiple-family Residential District:
  - a. One accessory building is allowed per multiple-family building.
  - b. Maximum accessory building size: 150 sq. ft.
  - c. Maximum accessory building height: 8 ft.
  - d. Accessory buildings are not permitted in a front yard; all other yard setbacks are 10 ft.
- 2. See Section 5.5 MHC for accessory buildings in a manufactured housing community.

**E. Nonresidential accessory buildings and structures**

- 1. Accessory buildings are allowed in nonresidential zoning districts, but only if accessory to a principal building or use.
- 2. An accessory building that is attached to a permitted principal building shall comply with all the requirements applicable to the principal building, unless otherwise stated in this section.
- 3. Size Requirements
  - a. The total floor area occupied by the accessory buildings and structures shall not exceed the gross floor area of the principal building.

- b. An accessory building or structure shall not exceed the permitted height for a principal building in the zoning district in which it is located.

#### 4. Location Requirements

- a. Except for canopy roofs, as defined in this Ordinance, accessory buildings or structures are not permitted in a front yard or required side yard.
- b. Accessory buildings shall not occupy more than 25 percent of a required rear yard.
- c. The following setback requirements apply:
  - i. Accessory buildings and structures shall meet all setback requirements for the zone district in which they are located.
  - ii. A detached accessory building shall be at least 25 feet from a principal building and at least 18 feet from another accessory building.

#### 5. Canopy roofs

- a. Canopy roofs, such as those for fuel pump islands, drive-in restaurants, banks and other similar uses, may encroach into a required yard; provided, a minimum fifteen foot setback is maintained from a property line.
- b. A canopy must be open on all sides and cannot exceed fourteen feet in height.
- c. The design and color of the canopy shall be compatible with the principal building.
- d. Lighting on, or within the canopy shall comply with the requirements of *Section 12.2* of this Ordinance.
- e. Canopy signs shall comply with the provisions of *Section 12.4*.

#### F. **Garages.** A garage may either be attached to a dwelling or detached as a separate structure.

##### 1. Garage size

- a. The floor area of an attached garage shall not exceed 60 percent of the floor area of the dwelling, except that an attached garage may be up to 576 square feet regardless of the floor area of the dwelling, and further, in no instance shall the floor area of the garage exceed 1,500 square feet.
- b. In the MFR District, a garage attached or integral to a two family dwelling or a multiple-family dwelling shall not contain more than two parking stalls and shall not be larger than 600 square feet per dwelling unit.

- 2. Detached garage in the MFR District. A detached garage consisting of multiple parking stalls may be permitted in the MFR District, subject to Planning Commission approval of a site development plan. A detached garage in the MFR District shall not have more than one parking stall (not exceeding 300 square feet) for each dwelling unit served by the garage.

#### G. **Pole buildings.** The use, construction or occupancy of a pole building in the B-1, B-2, B-3, R-U, O-S, and MFR districts is prohibited, except as follows:

- 1. As a temporary use regulated in *Section 3.11*.
- 2. As an accessory building in a manufactured home park, as permitted by this Ordinance.

- H. **Portable temporary storage containers.** A portable temporary storage unit, known as a portable storage container (PSC) and sometimes called a portable on-demand storage unit, may be temporarily delivered, placed and used in any zoning district, but only in compliance with the provisions of this section.
1. A PSC may be temporarily placed on a property to store goods, items or objects that are being moved to another location or that are being stored during building remodeling or for other purposes.
  2. The placement and use of a PSC requires an application and payment of a fee established by the Township. A permit shall be issued by the zoning administrator upon finding that the provisions of this section have been met. The permit shall state the date of issuance, the maximum time a PSC can remain on the property and any terms and conditions.
  3. Except as stated below, a PSC shall not remain on a property for more than 30 consecutive days during a 12-month period, commencing on the date the permit is issued. However, when being used to store equipment, goods and materials associated with remodeling or new construction, a PSC may remain on a property for not more than 90 days during a 12-month period, commencing on the date the permit is issued. In either case, one permit extension may be granted by the zoning administrator for a period not more than 30 additional days beyond the time originally specified, subject to the following:
    - a. The applicant has demonstrated a sufficient reason for the time extension, such as extenuating circumstances requiring additional and reasonably necessary time for storage.
    - b. That the requirements of this section were satisfied by the applicant during the initial approved period of storage.
    - c. That serious adverse effects are not likely to result from extending the period of time for storage.
  4. A PSC shall not be longer than 16 feet, wider than eight feet, nor taller than eight feet, except that in the O-S, B-1, B-2, B-3 and D-1 Districts, a PSC may be up to 20 feet in length.
  5. Not more than one PSC may be placed on a property at one time, except that in the O-S, B-1, B-2, B-3 and D-1 Districts the zoning administrator may approve up to four, subject to all the requirements of this section. When approving additional PSCs, the zoning administrator shall find:
    - a. The applicant has demonstrated a sufficient reason for additional PSCs, such as extenuating circumstances requiring additional storage space.
    - b. That the terms and conditions of this section would be satisfied, despite additional PSCs.
    - c. That serious adverse effects are not likely to result from additional PSCs.
  6. A PSC shall not be located closer than ten feet to a public or private street right-of-way, nor closer than ten feet to a property line.
  7. A PSC shall only contain a sign that is limited to the name, address and telephone number of the owner of the PSC. No other text or graphics referring or pertaining to any service or product other than the PSC or the person or business entity providing the PSC are permitted, including any advertising, logo or slogan.
  8. A PSC shall not be used to store toxic or hazardous materials.

9. A PSC in an agricultural or residential district shall only be used to store personal goods and property, not commercial goods, business inventory or personal property not associated with the property on which the PSC is placed.

**I. Fences, walls, and flag poles**

1. Fences and free-standing walls not taller than three feet and retaining walls complying with corner clearance and visibility requirements in *Section 3.3.I.* are permitted in all zoning districts.
2. Free-standing walls or fences, not exceeding six feet in height, are permitted in a side or rear yard in all zoning districts.
3. On a corner lot, fences not exceeding six feet may be placed in line and behind the front façade of a dwelling. However, all fences over three feet within a secondary front yard shall be subject to the front setbacks applicable to principal buildings.
4. An eight foot tall wall or fence may be permitted around the perimeter of an essential public service storage yard, water tower or other related facility and an outdoor storage area in the B-1, B-2, B-3 and O-S commercial and D-1 and D-2 industrial districts.
5. A fence shall not contain barbed wire except in the D-1 and D-2 Districts and on farms in the R-A District.
6. The finished side of a fence or wall shall face outward, toward an adjacent property.
7. All fences and walls shall be well-maintained and in a safe condition.

**J. Small antennas and towers.** Freestanding radio, television or microwave antennas or towers (including satellite dish antennas) are permitted in all zoning districts provided the following provisions are satisfied, unless specifically exempted. Conventional VHF and UHF television antennae and satellite dishes three feet in diameter or less are exempt from the regulations of this section and do not require a land use permit, provided the equipment is not located in the front yard or on the portion of a building facing the front lot line.

1. A freestanding antenna shall not exceed 30 feet above grade, or have any dimension exceeding 30 feet, including its mounting structure, except that freestanding antennas or towers exceeding such height or other dimension may be permitted by the Planning Commission as a special land use under Chapter 9
2. An antenna or tower shall not display a name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent properties.
3. All antennas and towers shall be permanently secured to a stable foundation.
4. An antenna or tower shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the depth of the required rear or side yard setback, whichever is the greater.
5. For purposes of determining whether a proposed antenna or tower complies with the setback requirements of a district, the dimensions of the entire lot or parcel of land shall control, even though the antenna or tower may be located on leased parcels within a lot or parcel.
  - a. If an antenna or tower is placed on a vacant lot or parcel, the location and setbacks of the antenna or tower shall be determined by the Planning Commission.
  - b. Lots or parcels on which an antenna or tower is the principal use need not comply with the minimum frontage or the minimum lot area requirements of this Ordinance.

6. An antenna or tower may be mounted on the roof of a principal or accessory building, provided it shall not exceed a height of ten feet, as measured from the roof at the base of the antenna or tower.
7. All antennas and towers must be grounded to protect against damage from lightning.
8. An antenna or tower shall not be located or constructed in a way that may cause a serious adverse effect on adjacent or nearby land uses.
9. An antenna or tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other state or federal authority having jurisdiction over the antenna or tower. If lighting is required, the lighting as installed shall cause only the least possible disturbance to surrounding land uses and shall not exceed FAA minimum standards.
10. Antennas and towers for commercial communications services, including cellular telephone antennas and towers, shall be approved only as special land uses under the terms of Chapter 9.
11. The provisions of this section shall apply to towers and antennas owned and operated by a federally-licensed amateur operator and used solely for amateur radio communication purposes, but shall not preclude the construction and operation of an antenna or tower for amateur radio communication purposes. If the provisions of this section prohibit the construction of a particular amateur radio communications antenna or tower, then the Township shall seek to reasonably accommodate the proposed operator's desire to conduct amateur radio communications by considering other feasible designs, locations, methods of accessing repeater systems or the use of existing structures as an alternative to the operator's desired amateur radio communications antenna or tower.

K. **Swimming pools.** Before a building permit can be issued to construct an outdoor swimming pool in any zoning district, an application must be submitted to the Township accompanied by complete and detailed plans and specifications for the swimming pool, perimeter fencing and related equipment. A pool must comply with all of the following requirements:

1. The swimming pool shall be at least ten feet from a side or rear lot line and no part of the pool shall be within a required front setback.
2. A pool shall not be placed within a front yard.
3. A water drainage line shall be connected to a storm sewer, if available. If not available, the pool shall be drained in a manner approved by the Township building official. A pool shall not be drained into public or private sanitary sewer or a septic system. All drain connections shall be approved by the building official before final approval is given.
4. A swimming pool shall comply with all applicable requirements of the State of Michigan Construction Code.

L. **Dwellings**

1. Travel trailers, motor homes, campers and tents
  - a. A travel trailer, motor home, camper, tent or similar facility shall not be used for dwelling purposes in any district, except as follows:
    - i. As a temporary use as permitted in *Section 10.3*.
    - ii. As an accessory use seasonally permitted in a licensed campground.



2. Basement dwellings. A basement, either in an existing building or one that is partially built or under construction, shall not be used as a dwelling unit in any zoning district.
3. Minimum requirements for dwellings outside manufactured housing communities. All dwelling units located outside a manufactured housing community shall comply with the following:
  - a. A dwelling unit shall conform to the minimum floor area requirements of the district in which it is located.
  - b. A dwelling unit shall have a minimum floor to ceiling height of seven feet six inches; or if a manufactured home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
  - c. The minimum width of a single family dwelling unit shall be 22 feet for at least 67 percent of its length, measured between the longest exterior walls.
  - d. All dwelling units shall comply with the Michigan State Construction Code (BOCA) as promulgated by the Michigan State Construction Code Commission under provisions of Public Act 30 of 1972, as amended, being MCL 125.1501 et. seq. or the “Mobile Home Construction and Safety Standards”, as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
  - e. A dwelling unit shall be attached to a permanent foundation constructed in accordance with the State Construction Code (BOCA) and shall have the same perimeter dimensions as the dwelling. In the case of a manufactured home, it shall be installed per the manufacturer’s set-up instructions and shall be secured to a foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or the State Construction Code (BOCA) , whichever is stricter.
  - f. The wheels of a manufactured home shall be removed and the towing mechanism, undercarriage and chassis shall not be exposed.
  - g. A dwelling unit shall meet or exceed all applicable roof snow load and structural requirements.
  - h. A dwelling without a basement, except a slab on-grade unit, shall have a crawl space below the entire floor of the dwelling. It shall be at least four feet high and with a two inch thick concrete floor to act as a vapor barrier. The crawl space shall be adequately drained to prevent water accumulation. The building official may approve an alternate design if it is consistent with the Township’s approved construction code.
  - i. All dwellings shall be connected to a sewer and water supply system approved by the Township or the County Health Department.
  - j. Any addition to a dwelling shall meet all the requirements of this Ordinance.
  - k. Where there is a difference in elevation of more than eight inches between the bottom of an exterior door and the adjacent grade, steps or a porch, permanently attached to the foundation of the dwelling, shall be provided.
  - l. All dwellings shall have at least 100 square feet of enclosed storage space, excluding closets, located in a basement, garage, shed or other structure approved by the building official.

- m. A dwelling may have either a roof overhang of not less than six inches on all sides, or alternatively a roof drainage system that concentrates water at collection points and discharges it away from the dwelling.
- n. All dwellings shall be aesthetically compatible in design and appearance with other dwellings in the vicinity. Compatibility of dwelling design and appearance shall first be determined by the building official after reviewing building plans. A determination of compatibility shall be based on the standards in this section as well as the character, design and appearance of dwellings located outside any manufactured home community within 500 feet of the subject dwelling. Decisions regarding compatibility are not meant to prohibit design innovation for such things as architectural character, solar orientation, views, integration with topography, or relief from the appearance of common or standard home designs. A determination by the building official may be appealed to the Zoning Board of Appeals.
- o. Before a building permit can be issued for a dwelling, construction drawings, including a site plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Township. If the dwelling unit is a manufactured home, additional information shall be submitted to adequately assure that it complies with all the standards applicable to manufactured homes.
- p. All dwellings shall have at least two functioning exterior doors.

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### **Section 3.5 Site Clearing, Grading and Drainage**

- A. **Clearing and grading.** Grading or clearing vegetation to prepare a lot or parcel for construction shall not be permitted until a zoning compliance permit has been issued.
- B. **Drainage.** Site grading shall contain all runoff on a site or direct it to a storm water management facility, either without crossing abutting lands or via a dedicated stormwater collection easement. Storm water may be released at its natural flow rate, provided that any increase in the release rate due to development shall be detained on-site according to best management practices.

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### **Section 3.6 Parking and Storage**

- A. **Personal trailer storage or parking**
  - 1. Personal trailers may be stored or parked outdoors in the MFR and Industrial districts, but only within designated screened storage areas, as shown on an approved site development plan.
  - 2. Personal trailers may be stored or parked outdoors in the R-A, R-R, R-S and R-U Districts, subject to the following:
    - a. Personal trailers shall not be parked in a front yard; provided, they may be parked in a driveway for up to seven consecutive days and must be parked at least five feet from a property line.
    - b. Up to two personal trailers may be stored or parked on any lot or parcel; provided, there shall be no limit for properties two acres or larger in the R-A and R-R Districts.
- B. **Recreational vehicle and recreational unit storage or parking**
  - 1. Non-commercial outdoor storage or parking of recreational vehicles and recreational units is permitted in Residential Districts, in accordance with all of the following requirements:
    - a. They may be stored and parked in a rear yard.

- b. They may be stored and parked in one side yard, in the area between the front yard and the rear yard.
  - c. One recreational vehicle or one recreational unit may be stored or parked in a driveway in a front yard in any Residential District from April 1 through September 30; provided the vehicle shall not be located closer than five feet to the front lot line.
  - d. In the R-A and R-R districts, no more than two recreational vehicles or no more than two recreational units (or one recreational vehicle and one recreational unit) shall be parked or stored outdoors on a property less than one acre in area. No more than two recreational vehicles or recreational units (or one of each) shall be parked or stored on a property of less than two acres in the R-U and R-S Districts.
  - e. For properties of one acre or more in the R-A and R-R districts, up to four recreational vehicles or four recreational units, in any combination, may be parked or stored outdoors.
  - f. For properties of two acres or more in the R-U and R-S districts, up to four recreational vehicles or up to four recreational units (or any combination thereof) may be parked or stored outdoors.
  - g. Outdoor parking or storage of more than four recreational vehicles or more than four recreational units (or any combination exceeding four) shall be allowed, if approved by the Planning Commission as a special land use.
  - h. A recreational unit on a personal trailer is considered to be one vehicle.
2. Recreational vehicles or recreational units that are disassembled or missing component parts shall not be stored outdoors.
- C. Large truck and semi-trailer storage or parking**
- 1. Trucks rated one and one-half tons and larger and semi-trailers shall not be stored or parked in the R-S, R-U, R-D, and MFR districts.
  - 2. Trucks rated one and one-half tons and larger and semi-tractors may be stored or parked in the R-A or R-R Districts, subject to the following:
    - a. Trucks and semi-tractors shall not be stored or parked in a front or side yard.
    - b. No more than one truck rated at one and one-half tons and larger or no more than one semi-tractor may be stored or parked on a property.
    - c. Trucks accessory to an agricultural operation are exempt from these regulations.

### **Section 3.7 Nuisances**

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- A. **Control of heat, glare, fumes, dust, noise and vibration.** All uses shall be conducted and operated so they do not create a nuisance, nor cause serious adverse effects or dangerous conditions because of heat, glare, fumes, dust, noise or vibration on or beyond the lot on which the use is located.
- B. **Trash, litter or junk.** Trash, litter or junk shall not be placed, stored, collected or accumulated on a property, except in a lawful sanitary landfill, a lawful junkyard or not to exceed 10 days storage in a watertight storage receptacle designed for the temporary accumulation of trash. Waste receptacles shall not be left unattended in the front yard longer than seven days.

## Section 3.8 Private Streets

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- A. **Permitted private streets.** Private streets are permitted only in developments served by both a public sanitary sewer system and a public water supply system.
- B. **Design, construction, lot, naming and inspection requirements.** All private streets shall meet the following minimum design, construction, inspection, approval and maintenance requirements:
1. A right-of-way that is at least 50 feet wide is required for any private street serving a parcel, building or dwelling unit within a multiple-family building under separate ownership.
  2. For any street providing internal access to a development under single ownership, such as a rental apartment complex, a right-of-way is not required; however, all construction standards of this section shall apply. For such a development, all setbacks shall be measured as though a right-of-way exists, from a line located 25 feet from and parallel to the centerline of street.
  3. A private street that serves a single family detached residential use, a commercial or industrial use, or a multi-family dwelling containing more than four units shall be at least 26 feet wide.
  4. All private streets shall comply with the Kent County Road Commission construction specifications for platted streets, as amended.
  5. A private, dead-end street providing access to four or more dwelling units or other principal buildings, shall terminate in a cul-de-sac with a minimum street radius of 50 feet.
  6. A private street shall not be longer than 2,000 feet, measured from the intersection of its centerline with a public right-of-way, and no more than 75 dwelling units can be served by a single point of access from a private street to a public street. The Planning Commission may approve a longer private street or one that serves more dwellings, if it finds that any one of the following can be met:
    - a. Extraordinary circumstances or unusual hardships, such as extreme topographic conditions, pertain to the use and development of the land, requiring a longer street.
    - b. Direct access to another public street cannot be reasonably provided.
    - c. Unless a longer street is permitted a significant portion of the site cannot be reasonably used or developed.
  7. The crown height of a private street shall be at least 0.2 of a foot, measured from the street centerline to the outside edge of paving.
  8. A private street shall include concrete curbs or valley gutters.
  9. The maximum longitudinal grade of a private street shall not exceed 6 percent; however, up to a 10 percent grade may be allowed if the Township finds that an increase shall not adversely affect public safety, stormwater management or cause erosion.
  10. A private street shall be designed and constructed to sufficiently address storm water runoff using catch basins, storm sewers, culverts and other best management practices, as required by the Township engineer.
  11. A crossing of a stream, wetland or drainage way by a private street shall satisfy the requirements of the Township engineer and/or the government agency having jurisdiction.
  12. Any lot, unit or parcel having frontage on a private street shall meet the required minimum frontage and lot width of the zoning district in which it is located, in accordance with *Section 5.4*

and *Section 6.4*. For a private street in a Planned Unit Development approved under *Chapter 7*, the Planning Commission and Township Board may approve departures or modifications to the provisions of this subsection, as allowed under the terms of *Section 7.6*.

13. A private street serving lots or units under separate ownership shall have a recorded permanent right-of-way or easement which shall expressly permit utilities to be installed within the right-of-way or easement. Utility placement must comply with all applicable Township requirements and is subject to approval by the Township engineer.
  14. The layout of a private street and the design of an intersection with either a public or another private street shall accommodate clear vision and safe turning and travel in all directions. The intersection of a private street with a public street or another private street shall be at least 150 feet from any other street intersection, as measured along the rights-of-way or easements.
  15. A street name shall not duplicate or be substantially similar to another existing street name in the county, except when it is a continuation of an existing street. All lots fronting on a private street shall have an address and the number of each dwelling or building shall be displayed so that it is readily visible from the private street. Numbers shall be at least three inches tall.
  16. A private street shall be identified by an appropriately located sign that complies with Kent County Road Commission requirements for size and height, lettering style and other factors.
  17. Stop signs and other traffic control signs shall conform to the requirements of the Kent County Road Commission and must be installed at all appropriate locations and intersections.
  18. A private street, whether new or existing, shall be maintained, repaired, improved and plowed at all times to insure safe travel and to provide access for emergency vehicles. All persons owning property that abuts a private street are jointly and severally responsible for complying with this requirement.
  19. To verify compliance with Township construction standards the applicant's registered engineer shall inspect the private street at designated intervals during construction. Inspections shall coincide with the schedule required by the County Road Commission for the construction of platted streets. The applicant's engineer shall certify, in writing, inspection results to the Township, which shall then be reviewed by the Township engineer for compliance. Inspections and certifications shall include depth and type of subsurface and paving material, density testing, quantity of paving material and other testing and documentation as necessary for the Township to determine compliance with required specifications. Additional inspections and certifications by the applicant's engineer may be required.
- C. **Private street applications.** An application to establish, extend, modify or relocate a private street shall be filed with the Township Clerk and include the following:
1. The name(s), addresses and telephone numbers of the owners and any other parties having a legal interest in the private street or the property across which it is to be constructed and the permanent parcel number(s) of all lots and parcels to be accessed by the private street.
  2. A drawing(s) prepared and sealed by a professional engineer or land surveyor licensed by the State of Michigan, with a scale not less than one inch=200 feet, containing the following information:
    - a. Location, route, elevations, dimensions of the private street in accordance with the standards of this section.
    - b. Proposed extensions of the private street.

- c. A layout including dimensions of the parcels to be served by the private street and any parcels to be accessed by future extensions.
  - d. The location where the private street is to intersect with a public street.
  - e. The location of all utilities, including but not limited to water, sewer, telephone, gas, electricity and television cable to be located either in the private street right-of-way or within 20 feet.
  - f. The location of a lake, stream or drain in the proposed private street right-of-way or within 100 feet.
  - g. A street cross section.
3. For a private street providing access to lots or units under separate ownership, a copy of the recordable legal instrument(s) describing and granting private street easement(s).
  4. A copy of a recordable private street maintenance agreement, signed by all owners of the lands served by the private street and other parties in interest, which includes the following:
    - a. Provisions that assure that the private street will be maintained, repaired and snowplowed for the full width of the roadway in accordance with the standards of this section and in a manner to assure that the private street is safe for travel and accessible by emergency vehicles at all times.
    - b. Provisions that assure that the costs of maintenance of the private street and its easement are paid for in an equitable manner.
    - c. A legal description of the private street easement and a legal description of the individual parcels of land to be served by the private street. All properties served by the private street shall be subject to the private street maintenance agreement.
    - d. Provisions authoring the Township, in its sole discretion, to perform reasonably necessary maintenance of the private street, subject to reimbursement by the owners of the properties served by the private street.
    - e. Provisions declaring that the private street maintenance agreement constitutes a restrictive covenant, running with the benefitted lands, and binding on all current and future owners and other parties in interest as to the respective obligations stated therein.
    - f. Provisions authorizing the Township, in its sole discretion, to enforce the terms of the private street maintenance agreement, by any lawful means, in addition to such enforcement by any of the owners of the lands served by the private street, or by another interested party.
    - g. Provisions to indemnify, save and hold the Township, and its officers, employees and agents, harmless from any and all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair or replace the private street.
  5. The private street maintenance agreement specified under subparagraph (4) of this section shall be furnished to the Township attorney prior to the recording for review. The agreement shall then be revised based on any review comments, and shall be recorded prior to the issuance of a certificate of the compliance under this section. A recorded copy of the private street maintenance agreement shall be provided to the zoning administrator and Township attorney before building permits are issued for any property served by the private street.
  6. A Soil Erosion and Sedimentation Control Permit as issued by the Road Commission or the Soil Erosion and Sedimentation Control Agency having jurisdiction, if applicable.

7. A driveway permit and proposed private street name approved by the Road Commission.
8. Permit and escrow fees as established by the Township Board.
9. The name of the contractor constructing the private street and a verification of the contractor's road construction experience.

**D. Procedures for reviewing a private street application**

1. An application for a private street shall be submitted to the Township Clerk who shall forward it to the Township's planner, attorney and engineer for their comments. If the application is complete, the zoning administrator shall forward it to the Planning Commission together with comments from Township staff. If the application is incomplete, the zoning administrator shall return it to the applicant with a written explanation of the deficiencies that must be corrected.
2. A complete application shall be considered by the Planning Commission at a public meeting. If the private street is part of a planned unit development, special land use, site development plan review or other application requiring Planning Commission consideration it may consider private street approval as part of the other development review.
3. The Planning Commission shall review the application and base its approval on compliance with the following standards:
  - a. The private street complies with all requirements of this section and other applicable provisions of this Ordinance.
  - b. The private street would not create hazardous or potentially hazardous situations.
  - c. The Planning Commission may consult with the Township planner, the fire chief, attorney, engineer, zoning administrator when considering a private street application.
4. In approving an application for a private street the Planning Commission may require reasonable terms and conditions. These shall be related to the placement, design, construction and use of the private street, consistent with the terms of this section and other applicable provisions of this Ordinance.
5. Following Planning Commission review and approval and upon a recommendation of the Township engineer, the zoning administrator shall decide whether to issue a construction permit for a private street. The following applies:
  - a. A private street shall not be constructed until a permit to allow construction has been issued.
  - b. In making a decision to release a construction permit for a private street, the zoning administrator or designee shall review the decision by the Planning Commission and determine whether: plans for the private street are consistent with previous approvals; the private street meets the design standards of this section; and the street can be constructed safely and without adverse effects upon adjacent or nearby property interests.
  - c. When issuing a construction permit for a private street, the zoning administrator or designee may impose conditions to assure compliance with the terms of this section and previous approvals.
6. The Township may require a performance bond for a private street as a condition of approval by the Planning Commission or the issuance of a construction permit by the zoning administrator, with an acceptable surety or a letter of credit conditioned upon the timely and faithful performance by the applicant, under the terms of this section and those of the approval.

7. The Planning Commission's approval or the zoning administrator's issuance of a construction permit for a private street does not authorize the construction or occupancy of a structure to be served by the private street.

**E. Certificate of compliance**

1. Once a private street has been constructed the zoning administrator or designee shall inspect the street to determine if it complies with approved plans and specifications, approvals by the Planning Commission and zoning administrator, the terms of this section and other applicable provisions of this Ordinance.
2. The applicant shall submit one set of as-built drawings of the private street to the Township, bearing a certificate and statement from a registered engineer certifying that construction has been completed in accordance with the requirements of this section and other provisions of this Ordinance and all terms of approval.
3. After receiving and reviewing the as-built drawings and inspecting construction, the zoning administrator may issue and present the applicant with a certificate of compliance. It shall state that the private street complies with this section, other applicable provisions of this Ordinance and approvals by the Planning Commission and zoning administrator.
4. If a completed private street fails to satisfy all requirements the zoning administrator shall notify the applicant in writing of the deficiencies. The applicant shall have a reasonable period of time to correct them and the zoning administrator shall issue a certificate of compliance once they have been resolved.

**F. Building and occupancy permits**

1. A building permit or any other permit shall not be issued for a dwelling or other building, structure or use with primary access by a private street until the street has been designed, approved in accordance with the requirements of this Ordinance, a private street construction permit has been issued, the street has been constructed and a certificate of compliance has been released, except as stated below.
2. Under certain circumstances a building permit may be issued for a dwelling or other building, structure or use with primary access by a private street even when the street has not yet been approved, constructed and inspected by the Township. In such cases, a building permit may be issued if the zoning administrator determines that persons and vehicles may safely traverse the incomplete private street, further approvals and construction of the private street shall be pursued diligently to completion and the Township has accepted a performance bond conditioned upon the timely and full completion of the private street in accordance with this section.

- G. Existing private streets.** The provisions of this section shall apply to an extension of any existing private street.

**Section 3.9                      Driveways**

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**A. Application to the zoning administrator**

1. An application for a building permit shall include documentation necessary to show that a driveway serving a proposed building, structure or use complies with the minimum standards of this section.



2. An application for a building permit shall also include a driveway permit that has been issued by the Kent County Road Commission.
- B. Minimum standards for driveways and shared driveways.** A building permit shall not be issued for a property which is to be served by a single or shared driveway unless it complies with the requirements below. The requirements, however, do not apply to any driveway 175 feet or less in length, measured from the intersection of the driveway with a street to the closest portion of the building or structure being served.
1. The area containing a single or shared driveway shall have a minimum cleared width of 20 feet.
  2. Overhead branches within the cleared area shall be trimmed to a height of 14 feet above ground.
  3. To ensure safe passage for private and emergency vehicles, the driving surfaces and all vertical and horizontal cleared areas shall be adequately maintained by the property owner, or by persons with a legal right to use the driveway.
  4. The driving surface of a single driveway shall be at least 12 feet wide and for a shared driveway at least 16 feet wide.
  5. A driveway shall have a sub-base of stable soil and a driving surface of MDOT 22A compacted gravel with depth of at least a six inches.
  6. The driving surface of any driveway shall be crowned to facilitate drainage.
  7. The longitudinal slope of any driveway shall not exceed 10 percent, unless approved by the Township fire chief.
  8. Any driveway crossing a stream or drainage way shall be designed to maintain drainage to the satisfaction of the Township engineer and any agency having jurisdiction.
    - a. A crossing of a stream, drainage course, or similar feature shall be adequately designed to safely support fire and other emergency equipment.
    - b. When constructing a crossing, best management practices shall be employed to prevent soil or silt from entering a stream or drainage course, either during or after construction. Construction measures shall be approved by the Township engineer or any agency having jurisdiction.
  9. Except at a crossing, a driveway shall be at least 25 feet from a stream, drainage course or other water body.
  10. The street address shall be posted in a conspicuous place on the property so it is visible from a public or private street.
  11. For any driveway, the inside radius of a horizontal curve shall be at least 50 feet.
  12. The centerline to centerline spacing of the intersection of a shared driveway and a public right-of-way shall be at least 125 feet from another shared driveway, or a private or public street. The spacing requirements may be reduced if it is determined that existing conditions such as lot widths, location of other shared driveways or roads, topography, or other natural constraints make compliance impractical.

### C. Existing lots and driveways

1. An easement for a shared driveway which provides the sole means of access to a lot of record as of the effective date of the amendment adding this section shall comply with the provisions of this section, except that the provisions of subsections B.1, 3, 4, 5, 10, 11 shall be satisfied only to the extent that the existing limitations of the easement permit compliance with these provisions.
2. For a shared driveway existing as of the effective date of the amendment adding this section, which thereafter becomes a private street by extension or lot division, the existing portion of the shared driveway shall be treated as an existing private street under *Section 3.8* of this Ordinance.

D. **Minimum standards for exempt driveways.** Any driveway that is not subject to some or all of the requirements of subsection C.2 above shall nonetheless be constructed and maintained year round so as to assure safe passage of vehicles.

### Section 3.10 Excavation and Site Preparation

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- A. Soil, sand, gravel or other material shall not be removed from a site without Township approval, except for the following:
1. When soil removal is incidental to an operation for which a building permit has been issued;
  2. When soil removal involves typical landscaping, driveway installation and repairs or other minor projects;
  3. When soil removal will not alter major drainage patterns or cause drainage impacts to adjoining properties;
  4. When soil removal involves less than 300 cubic yards;
  5. When soil is removed to construct a swimming pool; and
  6. When soil removal does not violate another section of this Ordinance, other Township ordinances or other applicable state or federal law.
- B. Any excavation not exempted by this section shall be subject to the requirements of *Chapter 9*.
- C. An unprotected, un-barricaded, open or dangerous excavation, hole, pit, or well, which constitutes or is reasonably likely to constitute a danger or menace to the public health, safety, or welfare is prohibited and considered a public nuisance; provided however, that this Ordinance shall not prevent an excavation that has received a permit issued pursuant to the provisions of *Chapter 9*.

### Section 3.11 Temporary Uses

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The zoning administrator may consider and approve a permit for a temporary use or structure, or forward the application to the Planning Commission for consideration. Approval of a temporary use permit is subject to the requirements in *Chapter 10*.

## **Section 3.12 Security to Complete Improvements**

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Any improvements that require financial security shall comply with the following:

### **A. Performance bond**

1. The bond shall vest all necessary benefits to the Township, covering construction, operation and maintenance of the improvement.
2. The bond shall be in an amount equal to the estimated costs to complete construction of the improvement, including any contingencies, as estimated by the Township engineer.
3. The Planning Commission shall specify the term during which the bond shall remain in force.
4. The bond shall be with a surety company, acceptable to the Township and authorized to do business in the State of Michigan.
5. As improvements are properly and partially completed, the Planning Commission or Township Board, as applicable, may reduce the amounts covered by the performance bond proportional to the cost of the completed improvements.

### **B. Cash deposits, certified check or irrevocable bank letter of credit**

1. Cash, certified check, or an irrevocable bank letter of credit, acceptable to the Township, shall be deposited with the Township Clerk.
2. The value of the cash deposit, certified check or irrevocable bank letter of credit, shall be equal to the estimated costs to complete construction of the improvement, including any contingencies, as estimated by the Township engineer.
3. A cash deposit or certified check shall remain on deposit with the Township and an irrevocable bank letter of credit shall be effective for a period of time as determined by the Planning Commission.

As improvements are properly and fully completed, the Planning Commission or Township Board, as applicable, may reduce the amounts covered by a cash deposit, certified check or irrevocable bank letter of credit proportional to the cost of the completed improvements.

## **Section 3.13 Health Department Approval**

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- A. A permit to construct a building or structure served by drinking water and sanitary facilities, on a lot that is not served by both public water and sewer, shall not be issued until a sewer construction and a well permit has been issued by the Kent County Health Department and submitted to the Township building official.
- B. The Township building official shall issue a stop-work order and notify the Kent County health official when a private sewage disposal system is being constructed, altered or extended without a permit issued by the Kent County Health Department.

## **Section 3.14 Condominiums**

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### **A. Purpose**

1. Tracts of land that are developed and sold as a condominium or site condominium are not subject to regulation under the Michigan Land Division Act of 1967. In the best interests of public health, safety and welfare, the Township regulates the creation of condominium and site

condominium developments so they do not adversely affect future occupants, adjacent properties or the Township in general.

2. This section regulates condominium developments, whether for residential use or non-residential use. Site condominium developments are subject to and shall be reviewed in accordance with the Township Site Condominium and Utility Extension Ordinance.

B. **Definitions.** Except as otherwise provided by this Ordinance, words or phrases shall have the meanings as defined in the Condominium Act.

C. **Commencement of construction, issuance of permits.** Construction, grading, tree removal, soil stripping or other site improvements or changes shall not begin until:

1. A final condominium project plan has been approved by the Township Board;
2. All conditions imposed by the Township Board have been met; and
3. All applicable approvals or permits from review and enforcement agencies have been obtained.

D. **Application for condominium approval.** An application for condominium approval shall include the following:

1. A condominium project plan, including documents and information required by Section 66 of the Condominium Act.
2. If not already included in the condominium project plan, the following information shall also be provided:
  - a. The information required in *Chapter 11* Site Plan Review.
  - b. To demonstrate compliance with minimum lot area, lot width and building setback requirements and, where applicable, building placement and separation requirements of the zone district in which the building is located, the layout and dimensions of all condominium buildings and related building envelopes shall be shown. When a condominium is part of a PUD the Planning Commission may recommend and the Township Board may approve modifications to regulations as allowed in *Section 7.4.D*. Accordingly, the condominium project plan shall depict any requested modifications.
  - c. Approval by the Kent County Road Commission for the proposed design and location of site access to the project from public rights-of-way.
  - d. The use and occupancy restrictions and maintenance provisions for all general and limited common elements to be included in the master deed.
  - e. A storm drainage and storm water management plan; including any easements to install, repair and maintain related facilities.
  - f. A utility plan showing all water and sewer lines and easements; including any easements to install, repair and maintain utilities.
  - g. A narrative describing the overall project objectives and the proposed methods of providing potable water and other utilities and the disposal of sewage.
  - h. A street construction, paving and maintenance plan for all private streets, if any.

**E. Review of preliminary plans by the Planning Commission**

1. A condominium project plan that complies with *Section 3.14.D* together with fourteen copies, application fees and an escrow deposit shall be filed with the Township Clerk.
2. The Township Clerk shall forward the application to the zoning administrator who shall then review the plan and forward copies to the Township planner, attorney and engineer. They shall also review the application and provide a written report. If the application is found to be incomplete, it shall be returned to the applicant with a written explanation of any deficiencies. If resubmitted within six months a corrected application does not require a new application fee. If deemed to be complete, following plan review the zoning administrator shall forward the application and related reports to the Planning Commission.
3. The Planning Commission shall review the preliminary condominium project plan in accordance with the standards of *Section 3.14.G* and other applicable procedures, standards and requirements provided by this Ordinance.
4. After reviewing the preliminary condominium project plan, the Planning Commission shall prepare a written recommendation, including any suggested or required changes, and forward copies to the applicant and Township Board.

**F. Review and approval of final plans by the Township Board**

1. After receiving a recommendation from the Planning Commission, the applicant shall submit at least ten copies of a final condominium development plan, which complies with the requirements of this section and of *Section 3.14.G* to the Township Clerk. The final condominium project plan shall incorporate all recommendations made by the Planning Commission, if any, during preliminary plan review. If a recommendation by the Planning Commission has not been incorporated, the applicant shall clearly specify in writing why not. Except for any changes based on recommendations by the Planning Commission, the final plan shall otherwise be identical to the preliminary plan.
2. The Township Clerk shall forward copies of the final plan to the zoning administrator who shall review it and then forward copies to the Township planner, attorney and engineer. They shall review the plan and provide a report that will go to the Township Board.
3. If the plan is deemed incomplete it shall be returned to the applicant with a written explanation of any deficiencies. If resubmitted within six months, a corrected application does not require a new application fee. If deemed to be complete and following plan review, the zoning administrator shall forward the plan and related reports to the Township Board.
4. After receiving the Planning Commission's recommendations and reports on the preliminary plan and a final condominium development plan from the applicant, the Township Board shall review the entire submittal. The Board may approve, deny or approve with conditions the plan in accordance with the standards in *Section 3.14.G* and other applicable procedures, standards and requirements provided by this Ordinance.
5. As a condition of final condominium project plan approval:
  - a. The Township Board shall require the plan to be submitted to the County Health Department, County Road Commission, County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Public Health, Michigan Department of Environmental Quality, and other appropriate state and county review and enforcement agencies ("the Agencies") having direct approval or permitting authority over any aspect of the proposed condominium project.

- b. The Township Board may impose reasonable conditions of approval, as provided by *Chapter 11* and based on any other provisions of this Ordinance or other Township ordinances, state laws, regulations or applicable laws.
- c. The Township Board may require reasonable performance guarantees or assurances, deemed satisfactory and as authorized by law, to fulfill the obligations of the plan, as approved. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved final condominium project plan. This includes any conditions of approval and the construction and placement of all required improvements. The Township Board may rebate or refund a proportionate share of the performance bond, letter of credit, or other written assurance, based upon a verified percent of completion of the improvements.

**G. Standards for approval.** To receive approval, a condominium project plan shall satisfy the following:

- 1. The plan shall satisfy the standards and requirements for Site Plan approval in *Chapter 11*, unless proposed as a PUD, in which case the standards and requirements for approval in *Chapter 7* shall apply.
- 2. Common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design and other aspects of the proposed project shall comply with all requirements of the Condominium Act, or other applicable laws, ordinances and regulations. The zoning administrator and Township planner, attorney, engineer, fire chief, or other appropriate person shall be consulted as necessary to make such a determination.
- 3. A condominium shall comply with all applicable requirements of this Ordinance including, but not limited to lot area and width, yard requirements and building height of the applicable zoning district. If a condominium building is located in a PUD, following a recommendation by the Planning Commission, the Township Board may approve modifications to the requirements, based on *Section 7.6*.
- 4. If public streets are proposed, they shall follow the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets, as required by the Kent County Road Commission.
- 5. Private streets may be permitted, subject to the following requirements:
  - a. All private streets shall comply with *Section 3.8*.
  - b. Provisions in the Master Deed and Bylaws shall obligate the developer and/or owner's association to regularly maintain, repair and plow private streets so they are safe for travel at all times. The Master Deed and/or Bylaws shall indemnify and hold the Township harmless from any and all claims for personal injury and for property damage arising from a failure to properly construct, maintain, repair and replace private streets.
- 6. Each unit in the condominium project shall be served by public utility services in accordance with Township requirements.

**H. Construction in compliance with approved plan.** A building or structure shall not be constructed, nor shall any other site improvements or changes be made to a property in connection with a condominium project except in compliance with a final condominium project plan, as approved by the Township Board, including any conditions of approval.

- I. **Completion of improvements.** A building or occupancy permit for a condominium unit in an approved condominium project shall not be issued until the construction of all required improvements has been completed and approved by the Township, or security to complete improvements has been made.
- J. **Expandable or convertible condominium projects.** Approval of a final condominium project plan shall not constitute approval of expandable or convertible portions of a condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards and requirements of this section.
- K. **Revisions of approved final condominium project plan.** Changes to a development for which a final condominium plan has been approved are subject to this section.
1. An exempt change is not subject to review by the Township under this section, but a copy of the exempt change shall be filed with the Township Clerk. An “exempt change” means:
    - a. A change in the name of the development, developer, or street within the development;
    - b. A change in the voting rights of co-owners or mortgagees; or
    - c. Any other change in the condominium development which, as determined by the zoning administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the Zoning Ordinance.
  2. A minor change shall either be reviewed and approved by the zoning administrator, or by the Planning Commission. A “minor change” is one that constitutes a minor modification to site configuration, design, layout or topography of a condominium development (or any portion), including any change that results in:
    - a. A decrease in the number of condominium units;
    - b. A reduction in the area of the building envelope for any condominium unit;
    - c. A reduction of less than 5 percent in the total combined area of the general common elements of the condominium project;
    - d. A reduction in the total combined area of all limited common elements of the condominium;
    - e. Any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this Zoning Ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.
  3. A major change shall be reviewed by the Planning Commission and shall also be reviewed and approved by the Township Board, as provided in this section for the original review and approval of condominium project plans. A “major change” is one that constitutes a major change in site configuration, design, layout or topography of a condominium development (or any portion), including any change that results in:
    - a. An increase in the number of condominium units and/or buildings;
    - b. Any other change in site configuration, design, layout, topography, or other aspect of the project, which is subject to regulation under this Zoning Ordinance. This includes, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a condominium unit or building and which is determined by the zoning administrator to constitute a major change to the condominium project.

L. **Incorporation of approved provisions in master deed.** All provisions of an approved condominium development plan shall be incorporated by reference in the Master Deed and Condominium Bylaws for the condominium project. The Township shall require review and approval by the Township Attorney prior to recording. A copy of the Master Deed and Condominium Bylaws, as recorded with the county Register of Deeds, shall be provided to the Township within 30 days after recording.

M. **Time limitation on development**

1. A condominium development shall be under construction within one year after the final plan has been approved by the Township Board. If this does not occur the Township Board may grant an extension, not to exceed one year. However, the applicant must submit a written request prior to the expiration date and clearly show that unforeseen difficulties or special circumstances have been encountered that have resulted in delaying the condominium development.
2. If the condominium development has not commenced within one year after Township Board approval, or within an authorized extension, all building permits that may have been issued shall be void. The applicant shall then be required to seek approval from both the Planning Commission and Township Board under the terms of this section as a new application.

**Section 3.15 Nonconforming Buildings, Uses and Lots**

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It is the purpose of this section to provide regulations governing lots, buildings, structures and the uses thereof, which were lawful prior to the enactment of this Ordinance, or amendment thereto, but which are prohibited or restricted under the provisions of this Ordinance. It is the intent of this section to permit these lots, buildings, structures and uses to continue, but not to encourage their continued existence, except if permitted by the terms of this Ordinance or by authorized approval of the Zoning Board of Appeals, in accordance with the terms and conditions of any such approval. Because nonconforming lots, buildings, structures and uses prevent the full realization of the goals and objectives of this Ordinance, the spirit of this Ordinance is to reduce such nonconformities, except to the extent that the continuation thereof may be permitted by the terms of this Ordinance or by authorized approval of the Zoning Board of Appeals.

A. **Nonconforming use**

1. The lawful use of any land, building or structure, exactly as it existed at the time of the enactment of this Ordinance, may be continued in the following manner, even though such use does not conform to the provisions of this Ordinance.
2. Where a nonfarm use is nonconforming because the use is not permitted in the district, the building, structure or land area shall not be enlarged or further increased; provided, however, that the Zoning Board of Appeals may permit, by approval of a special exception under the terms of Section 13.3.A.5.b of this Ordinance, an expansion of the use up to, but not more than a 50 percent increase of the area of the building, structure or land occupied by the use, if the Zoning Board of Appeals makes the findings stated in Section 13.3.A.5.b of this Ordinance.

B. **Nonconforming buildings and structures.** Buildings or structures which are permitted in the district but do not conform to height, yard, parking or lot area provisions may be extended, altered or modernized provided that the extension, alteration or modernization does not further increase the nonconformity.

C. **Nonconforming accessory buildings.** Any previously constructed accessory building which was lawfully established in conformance with all zoning and building regulations in effect prior to the adoption of this Ordinance and is made nonconforming by this Ordinance shall be considered a



lawful use and, if damaged or destroyed to any extent, may be reconstructed to fully replace the building as it existed prior to such damage or destruction.

- D. **Unlawful uses not authorized.** Nothing in this section shall be interpreted as authorization for, or approval of, the continuation or expansion of a use, building or structure which was not legally established prior to the adoption of this Ordinance.
- E. **Change of use.** The use of a nonconforming building may be changed to another nonconforming use of equal or less nonconformity if such change is permitted by the Zoning Board of Appeals by approval of a special exception, under the terms of *Section 13.3.A.5.c* of this Ordinance.
- F. **Restoration and repairs.** Repairs and maintenance work required to keep a non-conforming building or structure in a sound condition shall be permitted. If a non-conforming building or structure is damaged or destroyed by fire, flood, wind or other casualty and such damage is less than 60 percent of the market value of the building or structure, the building or structure may be restored as it existed prior to such damage and its use resumed. If such damage or destruction to the non-conforming building or structure is 60 percent or more of its market value, the reconstruction and subsequent use must comply with the terms and provisions of the current Zoning Ordinance; except in the case of a non-conforming single-family or two-family detached dwelling. Such a single-family or two-family detached dwelling may be reconstructed if the applicant satisfies the following requirements, as determined by the Township Zoning Administrator (unless the Zoning Administrator elects to refer the determination to the Zoning Board of Appeals):
1. The dwelling must be reconstructed on approximately the same building footprint as that of the original dwelling, except that if any part of the original building footprint encroached onto an adjacent parcel(s) under separate ownership, and if that part of the dwelling was damaged by the casualty involved, the reconstructed non-conforming dwelling shall be located entirely on the applicant's parcel of land.
  2. The reconstructed non-conforming dwelling shall have a gross floor area that is approximately equal to or is less than the gross floor area of the original dwelling.
  3. The reconstruction and subsequent use of the non-conforming dwelling shall not increase adverse effects on adjacent or nearby lands or the uses thereof.

Any such reconstruction of a building or structure under this part F (whether more or less than 60% damage) shall be commenced within a period of one year after the time of such damage, or with respect to a non-conforming single-family or two-family detached dwelling, by such later time as the Zoning Administrator may approve, not to exceed an additional one year. Once commenced, such reconstruction shall be diligently pursued to completion.

- G. **Nonconforming due to reclassification.** The foregoing provisions of this article shall also apply to buildings, land or uses which may become nonconforming due to any reclassification of zoning districts or any subsequent change in the regulations of this Ordinance.
- H. **Nonconforming uses abandoned.** A nonconforming use which is unoccupied or unused for a period of 12 consecutive months shall be considered to be abandoned and shall not be resumed, except in full conformance with the regulations of the zoning district in which the building and/or property are located. The use shall be determined to be abandoned if one or more of the following conditions is found to exist:
1. Utilities, such as water, gas and electricity to the property have been disconnected;
  2. The property, buildings and grounds have fallen into disrepair;
  3. Signs or other indications of the existence of the nonconforming use have been removed;

4. Equipment or fixtures which are necessary for the operation of the nonconforming use have been removed; and/or
  5. Other actions which, in the opinion of the zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- I. **Plans already filed.** Where plans for a building have been filed which would conform with the zoning regulations in effect at the time of filing, but not with subsequently enacted regulations, and where a building permit has been issued, the building may be erected; provided, construction is begun within three months of such issuance and diligently pursued to completion.
  - J. **Nonconforming lots of record.** In any district, a permitted use may be established on a legally nonconforming lot or lots of record in existence as of the effective date of this Ordinance, or the effective date of any subsequent amendment which makes the lot nonconforming, subject to the following:
    1. Required minimum front and rear yard setbacks and building height limitations shall be met.
    2. The required minimum side yard setback for a lot which is nonconforming by reason of lot width shall be ten percent of the width of the nonconforming lot on each side, but in no event shall the required minimum side yard setback for such a lot be less than five feet.
  - K. **Limitation of authority.** The Board of Appeals shall have no power to extend a nonconforming use or nonconforming building or structure more than 50 percent of the original nonconforming use, building or structure. For the purpose of this subsection, "original" shall mean the existing floor space or existing land area at the time of initial application to the Board of Appeals as allowed hereunder. This section shall only apply to legal pre-existing, nonconforming buildings, structures or uses. The applicant shall further submit to the Board of Appeals a site development plan, at a scale of no less than 1" = 100', indicating:
    1. The structure and/or property in relation to other properties within 200 feet;
    2. A property description; and
    3. The present dimensions of the property and/or structure and the dimensions of the property and/or structure after the proposed extension.

# Chapter 4 Zoning Districts and Zoning Map

## Section 4.1 Zoning Districts

Byron Township is divided into the following zoning districts:

**Table 4.1: Zoning Districts**

District Abbreviation	Name	See Chapter:
R-A	Rural Agricultural	5
R-R	Rural Residential	5
R-S	Suburban Residential	5
R-U	Urban Residential	5
MHC	Manufactured Housing Community	5
MFR	Multi-Family Residential	5
B-1	Central Business	6
B-2	General Business	6
O-S	Office Service	6
D-1	Industrial	6
PUD	Planned Unit Development	7

## Section 4.2 Zoning Map

The locations and boundaries of these descriptions are established on a map entitled "Byron Township Zoning Map" which is hereby adopted and declared to be a part of this Ordinance.

### A. Zoning map location.

1. Regardless of any published copies of the zoning map, the official *Zoning Map* shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status of all land in the Township. A record is to be kept by the Township Clerk of all changes made or required to be made to the Official Zoning Map.
2. The Official Zoning Map shall be identified by the signature of the Township Clerk.
3. The Official Zoning Map shall be kept up to date and accessible to the general public. Once a change to the map becomes effective it shall be reflected on the Official Zoning Map.

### B. Interpretation of boundaries. Where the boundaries of a zoning district shown on the Official Zoning Map are uncertain, the following rules shall apply:

1. Where boundaries approximately follow streets, alleys or highways, their centerlines or those lines extended shall constitute boundaries.
2. Where boundaries approximately follow lot lines, they shall be construed as following those lot lines.
3. Where boundaries approximately follow township boundary lines, they shall be construed as following those township lines.
4. Where boundaries approximately follow railroad lines, they shall be construed as following the centerline of the railroad right-of-way.

5. Where boundaries are approximately parallel to the centerline of a street or highway, they shall be construed as being parallel to the centerline and at the distance from the centerline as indicated on the Official Zoning Map. If a distance is not given, the location on the map shall be determined by using a scale.
6. Where boundaries follow the shoreline of a stream, lake, or other body of water, they shall be construed to follow that shoreline. In the event the shoreline changes, the boundaries shall be construed as moving with the shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, drainage ditches or other bodies of water shall be construed to follow those centerlines.
7. Where the application of the these rules leaves a reasonable doubt as to the boundaries between two districts or where the boundary line divides a lot or parcel, the regulations of the more restrictive district shall govern the entire parcel in question.
8. Where a boundary line divides a property, each use on the property shall comply with the requirements of the district in which it is located.

### **Section 4.3                      Zoning of Vacated Areas**

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When a street, alley or other public way is vacated by governmental action, and when the lands within the boundaries of such a facility are attached to and become part of the adjoining lands, those lands formerly within the boundaries of the facility shall be subject to the same zoning regulations as apply to the adjoining lands.

# Chapter 5 Agricultural and Residential Districts

## Section 5.1 Districts Established; Intent and Purpose

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The following zoning districts are established as Agricultural and Residential districts:

- A. **R-A Rural Residential District.** This district supports agriculture as a principal use, preserves natural features or resources and conserves, stabilizes, enhances and develops opportunities for agricultural activities. It also provides opportunities for non-farm development in a manner that is harmonious with the preservation of agricultural activities and rural character; minimizes conflicting uses detrimental to or incompatible with agriculture; and prohibits uses requiring public facilities and services beyond those normally necessary for agricultural activities.
- B. **R-R Rural Residential District.** This district accommodates orderly residential growth; permits continued agricultural use and residential activities of a semi-rural character in areas that are presently without public utilities and are likely to remain without such services; protects and stabilizes the essential character of these areas to promote and encourage suitable environments for low density family lifestyles; and maintains and preserves a semi-rural character.
- C. **R-S Suburban Residential District.** This district supports the controlled expansion of urban, single family residential uses into areas that may eventually be served by public sewer, but currently are not. It is anticipated that sections of the R-S district could be rezoned to the R-U district as public utilities become available.
- D. **R-U Urban Residential District.** This district accommodates urban density, single family residences where public sewer is either available or is contemplated in the near future. It allows residential uses at a higher density than permitted in the R-S zone and supports affordable housing opportunities for the varying economic and lifestyle needs of Township residents.
- E. **MHC Manufactured Housing Community District.** This district allows primarily state-licensed manufactured housing communities in compliance with the rules and regulations of the Manufactured Housing Commission and the requirements of this Ordinance.
- F. **MFR Multi-Family Residential District.** The MFR District is designed primarily for multiple-family dwellings and office buildings and related compatible uses. It accommodates development on more compact lots, multiple-family dwelling structures and related uses, which are located in areas where public utilities and services are provided.

## Section 5.2 Table of Uses

The uses allowed in the Agricultural and Residential districts are listed in Table 5.2. “See Also” references additional requirements in this Ordinance applying to the use.

**Table 5.2: Table of Uses: Agricultural and Residential Districts**

P = Permitted use by right S = Special Land Use (see Chapter 9)	RA	RR	RS	R-U	MHC	MFR	See Also
<b>Accessory Uses</b>							
Accessory building, accessory structure, and accessory use	P	P	P	P	P	P	Sec. 3.4
Bed and breakfast	S	S	S	S		S	Sec. 8.6
Home occupation	P	P	P	P	P	P	Sec. 3.2.G
Home based business	S	S					Sec. 8.20.A.1
Keeping of chickens, non-commercial	P	P	P	P			3.2.E
Keeping of domesticated and household animals, non-commercial	P	P	P	P	P	P	Sec. 3.2.D
Keeping of farm animals (except chickens and pigs), non-commercial	P	P					3.2.E
Keeping of pigs, non-commercial	P						3.2.E
Landscaping business	S	S					Sec. 8.46
Medical use of marijuana	P	P	P	P	P	P	Sec. 3.2.H
Stables, Private	P	S					
Solar energy collector, building mounted	P	P	P	P	P	P	Sec. 8.35
Solar energy collector, ground mounted	P	P	P	S	S	S	Sec. 8.35
Wind energy conversion system, accessory	S	S	S	S	S	S	Sec. 8.42
<b>Agricultural Uses</b>							
Farm implement sales and service	S						Sec. 8.15
Farms and farming; also including one accessory single family dwelling	P	P					
Stables, Commercial	P	S					Sec. 8.7
Farm market	P	P					Sec. 8.16
Farm winery	S						Sec. 8.43
Greenhouse and nursery	P	P					
Landscaping business	S	S					Sec. 8.46
Roadside stand	P	P					Sec. 8.33
<b>Residential Uses</b>							
Day care, adult day care home	P	P	P	P	P	P	
Day care, family day care home (children)	P	P	P	P	P	P	
Day care, group day care home (children)	S	S	S	S	S	S	Sec. 8.19
Dwelling, multiple-family						P	Sec. 5.6
Dwelling, single-family detached	P	P	P	P		P	
Dwelling, single-family attached						P	Sec. 5.6
Dwelling, two-family			P <sup>(1)</sup>	P <sup>(1)</sup>		P	
Foster care, adult foster care family home	P	P	P	P	P	P	
Foster care, adult foster care group home						S	Sec. 8.4
Foster care, foster family home (children)	P	P	P	P	P	P	
Foster care, foster family group home (children)	S	S	S	S	S	S	

Table 5.2: Table of Uses: Agricultural and Residential Districts

P = Permitted use by right S = Special Land Use (see Chapter 9)		RA	RR	RS	RU	MHC	MFR	See Also
Manufactured housing community						P		Sec. 5.5
Migrant worker housing		S						Sec. 8.22
Nursing home							S	Sec. 8.3
Open space development		P	P	P	P		P	
<b>Institutional and Non-Residential Uses</b>								
Air strip or helipad		S	S					Sec. 8.5
Cemetery		P	P					Sec. 8.9
Day care, child care center		S	S	S	S		S	Sec. 8.13
Correctional institution		S						Sec. 8.12
Composting facility		S						
Essential service		P	P	P	P	P	P	Sec. 3.2.F
Mineral extraction		S	S	S	S	S	S	Sec 8.26
Private recreation				S	S			
Public recreation facility, indoor		S	S	S	S	S	S	Sec. 8.30
Public park and playfield		P	P	P	P	P	P	Sec. 8.31
Place of worship		S	S	S	S	S	S	Sec. 8.28
Public building and utility facility		P	P	P	P	P	P	Sec. 8.29
School, college or university		S	S	S	S		S	Sec. 8.47
School, college or university with dormitories, fraternity houses, and/or sorority houses					S		S	Sec. 8.47
School, private or parochial K-12		P	P	P	P	P	P	
Veterinary hospital		S	S					Sec. 8.41
Wireless communications facility	New antenna on existing structure or tower	P	P	P	P	P	P	Sec. 8.45
	New towers and facilities	S	S	S	S	S	S	

Notes to Table 5.2:

- (1) Permitted only on lots fronting upon a county primary road, as classified in the Community Master Plan.

## Section 5.3 Lot, Yard, and Building Requirements

Lot, yard, and building requirements for the Agricultural and Residential Districts are listed in Table 5.3, except for the MHC Manufactured Housing Community District. See Section 5.5 for MHC District requirements.

**Table 5.3: Lot, Yard and Building Requirements: Agricultural and Residential Districts**  
(see Section 5.5 for the MHC District)

n/a = Not Applicable		R-A	R-R	R-S	R-U	MFR <sup>(3)</sup>	
Minimum Lot Area (sq. ft.)	Single family	50,000	31,200	18,000	10,500	10,500	
	Two family	n/a	n/a	27,000	15,000	12,500 <sup>(4)</sup>	
	Multiple family	n/a	n/a	n/a	n/a	12,500 <sup>(4)</sup>	
	All other allowed uses	4 acres	4 acres	36,000	21,000	12,500	
Minimum Lot Width (ft.) <sup>(1)</sup>	Single family	200	120	110	90	90	
	Two family	n/a	n/a	135	100	100	
	Multiple family	n/a	n/a	n/a	n/a	100	
	All other allowed uses	200	120	165	100	100	
Maximum Building Height <sup>(2)</sup>	in stories	n/a	n/a	n/a	n/a	2.5	
	in feet	35	35	35	35	35	
Minimum Setbacks (ft.)	Single-Family, Attached and Two Family	Front	40	35	35	35	35
		Secondary front	40	35	35/30 <sup>(6)</sup>	35/25 <sup>(6)</sup>	35/25 <sup>(6)</sup>
		Rear	30	30	30	25	25
		Side	30	20	15	10	10
	Multiple Family	Front yard	n/a				50
		Rear yard	n/a				50
		Side yard	n/a				25
	Non-Residential <sup>(7)</sup>	Front yard	60				
		Rear yard	25				
		Side yard	25				
Minimum Residential Floor Area (sq. ft.)	1 story dwelling		1,200	1,200	1,200	1,200	1,200
	2 or 3 story dwelling	Ground floor	680	680	680	680	680
		Total	1,200	1,200	1,200	1,200	1,200
	Two family/multi-family, per unit		n/a	n/a	(5)		

### Notes to Table 5.3:

- (1) Minimum lot or parcel width on a County Primary Road shall be 130 feet.
- (2) See exceptions to maximum height requirements in Section 3.3.F.
- (3) See Section 3.4.D for special conditions applying to the MFR District.
- (4) Dwelling unit density in the MFR District shall be no greater than one unit per each 7,500 sq. ft. of lot area, exclusive of dedicated public right-of-way.
- (5) Minimum floor area requirements for two family dwellings shall be 900 square feet and for multiple family and attached single family shall be 650 square feet for one bedroom and efficiency units, 850 square feet for two bedroom units, 1,000 square feet for three bedroom units and an additional 100 square feet for each bedroom in excess of three.
- (6) Secondary front setbacks may be reduced to the lesser distance if approved by the Planning Commission during tentative preliminary plat or preliminary site condominium review for lots or units within street blocks designed on a grid when located on an 80- to 90-degree street intersection.
- (7) If setbacks for a particular use are included in Chapter 8, the greater setback shall apply.



## Section 5.4 Application and Review Requirements

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In addition to the requirements of this article, the following chapters and sections may apply to the development of land and certain uses and activities.

- A. **General Provisions.** Chapter 3 includes general provisions and requirements for certain activities that are not regulated distinctly by zoning districts.
- B. **Use Requirements.** Requirements specific to certain uses are located in Chapter 8 if noted in the far-right column in Table 5.2.
- C. **Landscaping.** Non-residential and multi-family site development will require compliance with Section 12.1.
- D. **Exterior Lighting Requirements.** Section 12.2 applies to parking lot lighting for non-residential and multi-family development.
- E. **Parking and Loading Requirements.** Section 12.3 will apply to all projects that require off-street parking or loading spaces.
- F. **Signs.** If signs are desired on a lot or parcel, the requirements of Section 12.4 will apply.
- G. **Review Procedures.** All development projects will be reviewed in accordance with Chapter 11 and the following chapters and sections, as applicable.
  - 1. Private Street- Section 3.8
  - 2. Condominium Review- Section 3.14.
  - 3. Planned Unit Development District- Chapter 7.
  - 4. Special Use- Chapter 9.
  - 5. Rezoning. If rezoning is required, Section 14.7 will apply.
  - 6. Variance. If a dimensional variance is required, Section 13.5 will apply.

## Section 5.5 MHC, Manufactured Housing Community, Special Conditions

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- A. **Required conditions**
  - 1. A manufactured housing community shall be developed pursuant to the requirements of the Michigan Mobile Home Commission Act, PA 96 of 1987, as amended, and the adopted rules for Manufactured Housing, Rule 125.1101, et. seq.
  - 2. A manufactured housing community shall gain access to a public thoroughfare either directly or via a permanent access easement.
  - 3. A manufactured housing community that contains 50 or more sites shall dedicate at least two percent of the gross acreage as open space, or 25,000 square feet, whichever is less. (Rule R125.1946). Required property setbacks shall not be used when calculating open space requirements.
- B. **Landscaping and screening**
  - 1. A manufactured housing community shall provide a screen along any boundary that either abuts a public right-of-way or an existing residential development.
  - 2. The screen shall consist of evergreen trees, or shrubs at least three feet tall at time of planting, which are spaced so they provide a continuous screen at maturity. Alternative screening

methods may be used if they are deemed as effective as the previously described landscape screen.

3. Exposed ground in all parts of the community shall be covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.

**C. Home site area**

1. A manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. The 5,500 square feet average may be reduced by 20 percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under Rules R125.1946, R125.1941 and R125.1944 of the Michigan Administrative Code.
2. A manufactured home shall be at least 50 feet from a public right-of-way, or 20 feet to a property line of a manufactured housing community.

**D. Parking**

1. At least 2 parking spaces shall be provided for each manufactured home site. They may be located either within the manufactured home site or adjacent to it. Parking spaces within the home site may be tandem or side-by-side; adjacent parking spaces shall be side-by-side.
2. One visitor parking space shall be provided for every three manufactured home sites. A visitor parking space shall be located within 500 feet of the home site it is intended to serve.
3. All parking spaces shall be 10 feet wide and 20 feet long.

**E. Storage**

1. One storage shed, complying with the Michigan Residential Code, may be placed upon an individual manufactured home site to store personal property, if permitted by management. Storage sheds shall be constructed of durable weather and rust-resistant materials and shall be maintained to reasonably preserve their original appearance.
2. Storage sheds that are attached to homes shall consist of materials similar to those of the home and shall have a fire-rated wall separation in accordance with the Michigan Residential Code.
3. A detached storage shed shall be at least 10 feet from an adjacent home. (Rule R125.1941(1)(c)).
4. All storage sheds shall be securely anchored, in accordance with the Michigan Residential Code.
5. The following minimum requirements shall apply:
  - a. A detached storage shed shall not be larger than 150 square feet.
  - b. A detached storage shed shall have a height not greater than eight feet.
  - c. A detached storage shed shall not be located in the front yard of a manufactured housing unit site; the storage shed shall be set back at least 10 feet from the side and rear boundary lines of a manufactured housing unit site.

**F. Appearance**

1. Towing mechanisms shall be removed from all homes at the time of installation and stored so they are not visible. Towing mechanisms, including axles, may be stored under a manufactured home.
2. Within 60 days of a manufactured home being placed on a site and before a certificate of occupancy can be released, skirting that is aesthetically compatible with the appearance of the manufactured home shall be installed around the base of a manufactured home to conceal the underbody. In the event installation is delayed by weather, a temporary certificate of occupancy shall be issued, pursuant to Section 13 of 1972 PA 230, as amended.
3. Skirting shall be vented as required by Rule R125.1604, meet the requirements established by the Manufactured Housing Commission, installed to resist damage under normal weather conditions and be properly maintained by the resident.

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**Section 5.6 MFR, Multiple Family Residential District, Special Conditions**


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**A. General Requirements.**

1. A dwelling entrance shall not be located more than 300 feet from a public or private street.
2. A dwelling entrance shall not be located more 150 feet from an off-street parking area.
3. All dwelling units and any related office, recreation or management building, or clubhouse shall be served by a public water and sanitary sewer system.
4. All refuse shall be collected and stored indoors or in a dumpster screened from any building, adjacent property, or street, consistent with the requirements of *Section 12.1.0*.

**B. Multiple Family Buildings.**

1. A multiple family building shall be limited to 12 dwelling units.
2. The following building separation requirements apply when there is more than one building on a parcel of land:
  - a. The front wall shall be at least 50 feet from the front wall of another building.
  - b. The rear wall shall be at least 100 feet from the rear wall of another building.
  - c. Rear setback requirements are included in Table 5.4. Accessory buildings shall not be located within the minimum setback area.
  - d. The minimum side separation between a multiple family building and another building shall be at least equal to the height of the taller building.

**C. Two-Family Buildings.** The following building separation requirements apply when there is more than one building on a parcel of land:

1. The front wall shall be at least 50 feet from the front wall of another building.
2. The rear wall shall be at least 50 feet from the rear wall of another building.
3. The rear setback shall be 25 feet.
4. Minimum side separation between buildings is 20 feet.

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# Chapter 6 Commercial and Industrial Districts

## Section 6.1 Districts Established; Intent and Purpose

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The following zoning districts are established as Commercial and Industrial districts:

- A. **O-S Office/Service District.** This zoning district accommodates office parks, office services, institutional uses, research laboratories and similar facilities that are located in areas with easy access to and from major streets. When implemented, this district does not have a predominantly commercial or industrial character and provides a transition between more intense uses and residential areas.
- B. **B-1 Central Business District.** The B-1 District accommodates smaller scale, traditional commercial areas, primarily within Byron Center and the Division Avenue corridor, that meet the central shopping and service needs of Township residents.
- C. **B-2 General Business District.** The B-2 General Business District accommodates varied commercial opportunities and serves a broad business and service market, primarily to the motoring public in the Township and the surrounding area.
- D. **D-1 Industrial District.** This district supports areas where the dominant use is light manufacturing and other related uses. These uses generate a minimum of noise, glare, odor, dust, vibration, air and water pollutants and other harmful or obnoxious impacts. The D-1 District permits the development of industrial uses, protects adjacent agricultural, residential, and commercial areas from the encroachment of incompatible uses, and lessens congestion on public streets and highways.

## Section 6.2 Table of Uses

The uses allowed in the Commercial and Industrial districts are listed in Table 6.2. “See Also” references additional requirements in this Ordinance applying to the use.

Table 6.2: Table of Uses: Commercial and Industrial Districts					
P = Permitted use by right S = Special Land Use (see Chapter 9)	B-1	B-2	O-S	D-1	Other Requirements
<b>Accessory Uses</b>					
Accessory building, accessory structure, and accessory use	P	P	P	P	Sec. 3.4.E
Outdoor Display and Sales Accessory to a Principal use, Permanent		S			Sec. 8.27
Outdoor storage accessory to a principal use		S <sup>(1)</sup>		S	Sec. 8.27
General office and general retail use accessory to an allowed industrial use				P	
General retail use accessory to an allowed general office use			S	P	
Solar energy collector system, building mounted	P	P	P	P	Sec. 8.35
Solar energy collector system, ground mounted	S	S	S	S	Sec. 8.35
Wind energy conversion system, accessory	P/S	P/S	P/S	P/S	Sec. 8.42
<b>Office and Service Uses</b>					
Appliance, small equipment, and personal item repair	P	P			
Day care, child care center	P	P	P	S	Sec. 8.13
General office and service	P	P	P		Sec. 8.14
General office and service with a drive-through	S	S	S	S	
Hospital			P		
Laundromat and dry cleaning pick-up service	P	P			
Medical or dental office or clinic		S	P		
Nursing home			P		Sec. 8.3
Veterinary hospital	P	P	S	P	Sec. 8.41
<b>Retail Sales</b>					
Construction and landscape supply, outdoor				P	
General retail	P	P			
<b>Restaurants, Entertainment and Hospitality</b>					
Bakery, less than 2,500 square feet	P	P			
Campground		S			Sec. 8.8
Club, private noncommercial	P	P	P		
Event and banquet center	P	P	P		
Hotel or motel	P	P			Sec. 8.21
Recreation facility, indoor (commercial)	P	P	S	P	Sec. 8.30
Recreation facility, outdoor (commercial)		P			Sec. 8.31
Restaurant, drive-in		S			
Restaurant, drive-through		S			Sec. 8.32
Restaurant	P	P	S		
Small distillery, micro-brewery, winery	P	P		P	Sec. 8.44
Tavern	P	P			
Theater, indoor		S			Sec. 8.30

<b>Table 6.2: Table of Uses: Commercial and Industrial Districts</b>					
<b>P = Permitted use by right</b> <b>S = Special Land Use (see Chapter 9)</b>	<b>B-1</b>	<b>B-2</b>	<b>O-S</b>	<b>D-1</b>	<b>Other Requirements</b>
<b>Automotive Related Uses</b>					
Parking as a principal land use	P			P	
Recreational vehicle sales and leasing		P		P	
Semi-truck and heavy truck sales and leasing		S <sup>(1)</sup>		P	Sec. 8.39
Truck stop		S <sup>(1)</sup>		S	
Vehicle sales and rental	S	P		P	Sec. 8.39
Vehicle repair, major				P	Sec. 8.37
Vehicle repair, minor	S	S		P	Sec. 8.38
Vehicle service station		S			Sec. 8.36
Vehicle wash establishment		S			Sec. 8.40
<b>Industrial Uses</b>					
Brewery, distillery, winery				P	
Contractor facility with outside storage of equipment and materials				S	Sec. 8.11
Contractor facility without outside storage of equipment and materials		S	S	P	
Dry cleaning and laundry plant				P	
Manufacturing, heavy				S	
Manufacturing, light				P	
Self-storage facility		S		P	Sec. 8.25
Outdoor storage as a principal land use				S	Sec. 8.27
Recycling and transfer station				S	
Sawmill or planing mill				S	
Warehousing and distribution				P	
<b>Other Uses</b>					
Adult entertainment uses				S	Sec. 8.2
Billboard as a principal land use		P		P	Sec. 12.4
Commercial kennel or animal shelter		S		S	Sec. 8.24
Composting facility				S	
Crematorium				P	
Equipment rental				P	
Funeral home and mortuary			S		Sec. 8.17
Impound operation				S	Sec. 8.23
Junkyard and salvage yard				S	Sec. 8.23
Mineral extraction	S	S	S	S	Sec. 8.26
Mixed uses: Residential use permitted along with an allowed non-residential use	S		S		
Places of worship	P	P	P	P	Sec. 8.28
Public building and utility facility		P	P		Sec. 8.29
Radio and television broadcasting station			P		
Sanitary landfill				S	Sec. 8.34
School, college or university	P	P	P		Sec. 8.47
School, college or university with dormitories, fraternity houses, and/or sorority houses	S	S	S		Sec. 8.47
School, private or parochial K-12					
School, trade or commercial, with classroom space	P	P	P	P	

Table 6.2: Table of Uses: Commercial and Industrial Districts						
P = Permitted use by right S = Special Land Use (see Chapter 9)		B-1	B-2	O-S	D-1	Other Requirements
School, trade or commercial, with warehouse or outdoor activities					P	
School, truck driving					P	
Wireless communications facility	New antenna on existing structure or tower	P	P	P	P	Sec. 8.45
	New towers and facilities	S	S	S	S	

Notes to Table 6.2:

- (1) Approvable only on parcels that are located within 1,000 feet of an interchange on M-6 or US-131, as measured from the outer edge of the state highway right-of-way to the most distant property line of the parcel.



## Section 6.3 Lot, Yard, and Building Requirements

Lot, yard, and building requirements for the Commercial and Industrial Districts are listed in Table 6.3.

**Table 6.3: Lot, Yard and Building Requirements: Commercial and Industrial Districts**

n/a = Not Applicable		B-1	B-2	O-S	D-1
Minimum Lot Area (sq. ft.)		none	20,000	20,000	2 acres
Minimum Width (ft.)		none	140	100 <sup>(2)</sup>	200 <sup>(3)</sup>
Maximum Building Height (ft.)	within 500 feet of US-131 or M-6	35	60	60	60
	within 500 feet of US-131 or M-6 but within 800 feet of a residential district	35	45	45	45
	all other areas	35	35	35	35
Minimum Front Yard Setback (ft.) <sup>(4)</sup>		7	50	50	60
Minimum Rear Yard Setback (ft.) <sup>(4)</sup>	abutting Commercial or Industrial zoned property	0	25	25	50 <sup>(4)</sup>
	abutting Agricultural or Residential zoned property	10	25	50	100
Minimum Side Yard Setback (ft.) <sup>(4)</sup>	abutting Commercial or Industrial zoned property	0 <sup>(5)</sup>	10	15	50 <sup>(4)</sup>
	abutting Agricultural or Residential zoned property	10	10	50	100

### Notes to Table 6.3:

- (1) The fire marshal or designee may impose greater yard requirements, when necessary, to assure safe and convenient access for fire and emergency vehicles and equipment.
- (2) Minimum lot or parcel width on a County Primary Road shall be 130 feet.
- (3) A corner lot in the Industrial Districts shall meet the minimum lot width on both street frontages.
- (4) Rear yard and side yard setbacks for a platted property, recorded prior to June 2, 1992, shall be at least 20 feet.
- (5) If a side yard is provided, it shall be at least five feet wide.

## Section 6.4 Development Requirements and Processes

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In addition to the requirements of this article, the following chapters and sections may apply to the development of land and certain uses and activities.

- A. **General Provisions.** Chapter 3 includes general provisions and requirements for certain activities that are not regulated distinctly by zoning districts.
- B. **Use Requirements.** Requirements specific to certain uses are located in Chapter 8 if noted in the far-right column in Table 6.2.
- C. **Landscaping.** Non-residential and multi-family site development will require compliance with Section 12.1.
- D. **Exterior Lighting Requirements.** Section 12.2 applies to parking lot lighting for non-residential and multi-family development.
- E. **Parking and Loading Requirements.** Section 12.3 will apply to all projects that require off-street parking or loading spaces.
- F. **Signs.** If signs are desired on a lot or parcel, the requirements of Section 12.4 will apply.
- G. **Review Procedures.** All development projects will be reviewed in accordance with Chapter 11, Site Plan Review, and the following chapters and sections, as applicable.
  - 1. Private Street- Section 3.8
  - 2. Condominium Review- Section 3.14.
  - 3. Planned Unit Development District- Chapter 7.
  - 4. Special Use- Chapter 9.
  - 5. Rezoning. If rezoning is required, Section 14.7 will apply.
  - 6. Variance. If a dimensional variance is required, Section 13.5 will apply.

## Section 6.5 Special Conditions

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- A. **Buildings per lot.** More than one principal building and/or principal use may be permitted on a lot provided the buildings together are determined by the zoning administrator to be a principal use collectively in accordance with all requirements of *Section 3.2.B* and if all the criteria in that subsection are satisfied.
- B. **Access management.** To maintain traffic safety, flow and volumes the Planning Commission may require the joint use of drives between several uses and prohibit more than one access drive to a single property or use. Approval of private streets and commercial driveways shall consider the guidance of the Byron Township Master Plan and shall comply with the requirements of the Kent County Road Commission.
- C. **Use of 100-foot wide lots in the B-2 District.** An existing lot that is less than 140 feet, but at least 100 feet wide, may be used for a permitted or special use in the B-2 District, subject to the special use provisions of *Chapter 9* and the following conditions:
  - 1. The lot is at least 200 feet deep and 100 feet wide.
  - 2. It first became a lot of record not later than January 26, 1970.

3. The lot is unimproved.
  4. As of the date of adoption of this ordinance, the lot was not in common ownership with an adjacent unimproved lot or lots. If the lot was in common ownership with an improved lot, the provisions of *Section 4.13* shall not apply.
  5. The front yard shall be measured from the right-of-way or as designated in *Section 4.21*, whichever is further from a street centerline.
  6. Off-street parking and loading shall be subject to all applicable provisions of *Section 12.3*.
- D. **Industrial district performance standards.** Uses in the Industrial districts shall conform to the following standards, which are established as minimum requirements. Generally accepted methods of collecting and analyzing information shall be used in applying these requirements. The Planning Commission shall make findings of fact with respect to these performance standards when reviewing a site development plan. A certificate of occupancy shall not be granted unless the applicant demonstrates that the proposed use complies with all performance standards listed below:
1. **Fire and Explosion Hazards.** All buildings, storage and handling of flammable materials and other activities shall conform to county and Township building and fire ordinances and to any applicable state and federal regulations or requirements. A land use shall not represent a fire or explosion hazard to another adjacent property or to the general public. The storage, use or manufacture of materials, goods or products, ranging from free or active burning to intense burning, as determined by the Fire Marshall, is permitted subject to compliance with all other yard requirements and performance standards previously described and providing that the following conditions are met:
    - a. All flammable liquids, solvents, cleaners and other hazardous substances capable of contaminating groundwater shall be stored within a building. Secondary containment measures shall be installed and utilized to prevent ground contact by any spills.
    - b. All such materials or products shall be produced, stored or used in a completely enclosed building or structure that has noncombustible exterior walls and that also meets all related building code requirements.
    - c. All such buildings or structures shall either be set back at least 40 feet from a lot line or protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Board of Fire Underwriters.
    - d. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with state rules and regulations, as established by Public Act No. 207 of 1941, as amended.
    - e. All handling of flammable or hazardous substances shall be in accordance with state and federal laws and all required permits shall be obtained and the establishment shall remain in conformance with all such requirements.
  2. **A Smoke and/or Air Pollution Control.** Smoke, radiation, fumes, gases, dust, odors or other atmospheric pollutants shall not be emitted beyond the boundaries of a lot in a manner that may cause property damage, hazards to public health, be detrimental to the property rights of others or constitute a nuisance. Emissions shall be in strict conformance with all applicable federal, state and county health laws.
  3. **Liquid or Solid Waste.** Industrial waste of any kind shall not be directly discharged into a river, stream, reservoir, pond or lake. All methods of sewage disposal and industrial waste treatment

and disposal shall be approved by the Township and by appropriate county and state departments.

4. Vibration. Vibration caused by an industrial activity shall not be detectable beyond the boundaries of the site on which the activity is conducted.
5. Noise. Noise created by an industrial activity shall not adversely affect an adjoining property.
6. Glare and Radioactive Materials. Any process that results in glare (such as arc welding or acetylene torch cutting), shall not emit ultraviolet light, measured at the property line, that exceeds safe levels as established by the National Institute of Standards and Technology and/or the Atomic Energy Commission.
7. Lighting. All exterior lighting or other forms of illumination shall not shine, reflect or cause glare onto public streets or surrounding properties.

E. **Public Water and Sewer Connection.** All parcels, lots, and condominium units intended to be used for non-residential purposes shall be served by public water and sewer. At its discretion, the Planning Commission may waive this requirement after consideration of the following:

1. The area is not located within a water or sewer service area.
2. Due to unique physical features of the land, or based on future infrastructure planning, water or sewer service is not considered to be technical feasible or financially reasonable.
3. The review and recommendation of the Township Engineer and the Kent County Health Department.

# Chapter 7 PUD Planned Unit Development District

## Section 7.1 Purpose

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Traditional zoning, with its segregated land uses and rigid dimensional requirements, may not be suitable in all situations to achieve desired land use patterns and to preserve the community’s resources and character. The Planned Unit Development (PUD) District provides opportunities for various forms of residential, commercial, mixed use, and industrial development within the Township. However, the provisions of this Chapter are not intended to circumvent the land use and planning objectives of the Zoning Ordinance. A PUD and its proposed land uses, densities, and other characteristics that qualify under this Chapter shall be reasonably consistent with the Master Plan. Among the general objectives of the PUD district are the following:

- A. To encourage innovation and creativity in land use planning and development.
- B. To promote and enhance housing and recreational opportunities.
- C. To promote and encourage the conservation and preservation of natural resources and natural features.
- D. To encourage the efficient use of land by facilitating well-designed arrangements of buildings, streets, utilities, and other features.
- E. To encourage the dedication of open space as an integral part of development and to promote the development of passive and recreational activities.
- F. To provide for and promote coordinated, flexible, and comprehensive land planning and development for the benefit of property owners and to serve the public interest.
- G. To enhance the compatibility of adjacent uses of land.
- H. To create better living, working and shopping environments.

## Section 7.2 Qualifying Conditions

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To qualify for PUD approval, the applicant shall demonstrate, in writing, that the criteria of this Chapter have been met or will be met by the proposed PUD.

- A. **Application Requirements.** The applicant shall demonstrate compliance with the zoning ordinance requirements, including Base District provisions as defined in *Section 7.2.B*, except in cases where the Base District provisions have been modified according to the provisions of *Section 7.4.C*. All modifications from minimum Base District requirements shall be requested and identified in writing.
- B. **Base District.** A Base District, for purposes of this *Chapter 7*, shall be that zoning district or districts applicable to the PUD lands immediately prior to the rezoning of the lands to a PUD district, unless the zoning ordinance amendment which rezones the lands to a PUD District specifically designates one or more different Base Districts for the PUD.
- C. **Types of PUD.**
  - 1. **Standard PUD.** A Standard PUD is a PUD with one underlying Base District. A Standard PUD District shall be designated with the Base District abbreviation as a prefix, such as “MFR-PUD.”

2. **Mixed-Use PUD.** A Mixed-Use PUD is a PUD with more than one underlying Base District. This may include more than one district within the same type (residential, commercial and/or industrial) of use districts, such as two residential Base Districts, or a combination of mixed district types, such as a residential Base District combined with a commercial Base District. A Mixed-Use PUD shall be designated as an “MU-PUD.”
3. **Downtown Infill and Redevelopment PUD.** A Downtown Infill and Redevelopment PUD is a PUD available to authorize higher residential densities, infill, commercial and residential development and revitalization projects in the Downtown area only. A Downtown Infill and Redevelopment PUD shall be designated as a “DIR-PUD.”
4. **Size of PUD.** Standard and Mixed-Use PUD Districts shall contain a minimum of five (5) acres, except for a DIR-PUD, which shall contain two (2) acres or less.

**D. General Qualifying Conditions for PUDs.**

1. **Utilities.** The PUD shall be served by public water and sanitary sewer.
2. **Ownership.** The PUD application shall be filed by the property owner, lessee or other person with legal interest in the property and written consent by the owner. The proposed development shall be under unified ownership or control, so one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.
3. **Master Plan.** Proposed uses within the PUD shall be substantially consistent with the future land use map of the township’s adopted community master plan.
4. **Eligible Districts.** Land within any zoning district may qualify for PUD zoning, except that a DIR-PUD shall only include MFR or B-1 District lands, or both, as a Base District(s).
5. **Recognizable Benefits.** Standard and Mixed-Use PUDs (but not DIR-PUDs) shall achieve recognizable and substantial benefits that would not be possible under the existing zoning classifications. These recognizable benefits include, but are not limited to, the following:
  - a. preservation of significant natural features,
  - b. a complementary mix of land uses or housing types,
  - c. extensive open space and recreational amenities,
  - d. connectivity of open space with adjacent greenway corridors,
  - e. preservation of rural character or small town appeal,
  - f. improvements to public streets or other public facilities that mitigate traffic and/or other development impacts,
  - g. accommodating transit oriented development,
  - h. coordinated development of multiple small parcels, or
  - i. removal or renovation of blighted buildings, sites or contamination clean-up.

**E. Specific Qualifying Conditions for DIR-PUD.**

1. **Conditions.**
  - a. The proposed PUD lands are designed as Village Commercial (VC) on the Future Land Use Map, or are within one-quarter mile of the VC area as designated on the Future Land Use

- Map and is connected, or will be connected, by sidewalks or pedestrian pathways to the downtown area.
- b. A DIR-PUD shall be two acres or less in size.
  - c. A DIR-PUD may only be formed upon a Base District containing a MFR District, a B-1 District, or both.
2. Recognizable Benefit. A DIR-PUD shall achieve recognizable and substantial benefits that would not be possible under the existing zoning classifications. These recognizable benefits include, but are not limited to, the following:
- a. a complementary mix of land uses or housing types,
  - b. coordinated development of multiple small parcels,
  - c. removal or renovation of blighted buildings and sites or clean-up of contaminated areas,
  - d. implementation of aging-in-place, affordable housing, infill development, or redevelopment goals of the Master Plan,
  - e. revitalization of the Downtown Village Center by incorporating higher-quality architecture and increased population,
  - f. incorporation of civic space and amenities for residents, or
  - g. connectivity to sidewalk and bicycle networks to accommodate non-motorized transportation options for residents.

### Section 7.3 PUD Requirements

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- A. **Land Uses.** Land and/or buildings in a PUD District may be used for the following uses only: Any use permitted by right in the underlying Base District, and in addition, any use permitted as a special land use within the underlying Base District when specifically authorized by the Township Board upon recommendation of the Planning Commission; provided, the Township may prohibit or eliminate one or more uses that would otherwise be authorized. Unless prohibited by the zoning ordinance amendment, the addition of a special land use shall be considered a minor change under *Section 7.7.C*, but shall be authorized by decision of the Township Board, after receipt of a recommendation from the Planning Commission.
- B. **Residential Units Allowed.** The maximum number of dwelling units permitted within the PUD shall be computed as the gross area of the underlying residential base zoning district(s) multiplied by the “maximum residential density” permitted for that zoning district in Table 7.3. The gross area of the underlying zoning district shall not include existing street rights-of-way, wetlands, water bodies or 100-year flood plain, utility easements or other easements that prohibit buildings. If a PUD contains more than one residential base zoning district with different density limits, the number of units allowed shall be the aggregate of each of the residential districts calculated separately.

**Table 7.3: Maximum Residential Density for PUDs**

PUD Type	Base Zoning District	Maximum Residential Density
Standard PUD or Mixed-Use PUD	R-A, R-R	1 unit per acre
	R-S, R-U	4 units per acre
	MFR	8 units per acre
Downtown Infill and Redevelopment PUD	MFR, B-1	12 units per acre

The mix of uses in a MU-PUD, and the calculation of permitted dwellings, shall be proportionate to the land area within each Base District, using the foregoing Table for each applicable Base District, unless the density is modified in accordance with *Section 7.4.C*. Any such modification, whether initiated by the applicant or by the Township, may increase or decrease the number of permitted dwellings.

- C. **Existing Planned Unit Developments.** Existing PUDs shall be subject to the requirements in place at the time of final approval and all conditions and agreements made a part of such approval, except:
  1. any expansion of the boundaries of the PUD or any major change, as defined in *Section 7.7*, shall be subject to all requirements of this Chapter and the review procedures of *Section 7.5*.
  2. as a condition of any PUD rezoning, failure to comply with the time limits prescribed in *Section 7.5.F* shall cause any approved PUD Development Plan and the rezoning ordinance to the planned unit development district (including any associated rezoning to a Base District when such rezoning was effective only upon concurrent rezoning to a PUD District), to be null and void and the land shall be included in the zoning district applicable to such lands immediately prior to such concurrent rezonings, as if the rezoning to the PUD District (and concurrent new Base District) had never occurred.
- D. **Interior Streets.** Public or private streets may be required to be extended to exterior lot lines to allow connection to existing or planned streets on adjacent parcels, in order to provide for secondary access, continuity of the circulation system and to reduce traffic on collector streets.

**Section 7.4 General PUD Provisions**

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- A. **Conditions.** The planning commission may recommend, and the township board may impose, reasonable conditions upon the PUD approval. Conditions may include, but are not limited to, those necessary to ensure public services and facilities will be capable of accommodating increased loads; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; be necessary to meet the intent and purpose of this ordinance; be related to the standards established in the ordinance for the proposed PUD; be necessary to ensure compliance with the final development plan and the provisions of this ordinance. The conditions imposed shall be recorded in the minutes of the approval action and shall remain unchanged except upon amendment of the PUD in accordance with the procedures of *Section 7.7*.
- B. **Performance Guarantees.** The planning commission may recommend, and the township board may require, reasonable performance guarantees, in accordance with *Section 14.6* of this ordinance to ensure completion of specified improvements within the PUD.
- C. **Modifications from Minimum Requirements.** District regulations applicable to a land use in a PUD may be altered from those of the Base District(s) in effect. Modification shall be limited to changes regarding lot area and width, building setbacks, height, lot coverage, minimum floor area, landscaping, lighting, signs and parking. The applicant for a PUD shall identify, in writing, all



proposed modifications from Base District requirements. Modifications may be approved during the preliminary development plan review by the Township Board, after Planning Commission recommendation, or with respect to minor changes as described in *Section 7.7*, by approval in accordance with that Section. These adjustments may be permitted only if they will result in a higher quality of development or better integration of the proposed use(s) with surrounding uses. No reduction of lot sizes, however, shall result in an increase in residential density beyond that permitted in Table 7.3. The modifications shall also satisfy one or more of the following criteria:

1. preserves the best natural features of the site;
  2. creates, maintains or improves habitat for wildlife;
  3. creates, improves or maintains open space for the residents;
  4. enhances the views into the site as well as the view from dwellings to be built on site; and
  5. results in a better development, consistent with the purposes of PUD expressed in *Section 7.1* and the recommendations of the Township Master Plan.
- D. **Open Space.** Each PUD shall be required to provide 20 percent open space within the overall development in accordance with specifications for required open space within this section.
1. **Areas Not Considered Open Space.** The following land areas shall not be considered as required open space for the purposes of this section:
    - a. the area within any public street right-of-way or private street easement;
    - b. any easement for overhead utility lines, unless adjacent to qualified open space;
    - c. fifty percent of any flood plain, wetland, water body or steep slope (25 percent or greater) area and 50 percent of the area of any golf course;
    - d. the area within a platted lot or site condominium unit, unless the lot or unit has been dedicated to open space, via conservation easement or other means of ensuring that the lot or unit is permanent open space;
    - e. parking and loading areas; and
    - f. fifty percent of any storm water detention or retention areas.
  2. **Specifications for Required Open Space.** Required open space areas shall meet the following specifications:
    - a. shall be for use by all residents of the PUD, subject to reasonable rules and regulations. In the case of a golf course, stable or similar facility, membership shall be available to all residents of the PUD, subject to charges, fees or assessments for use;
    - b. if the site contains a lake, stream or other body of water, the township may require that a portion of the required open space shall abut the body of water;
    - c. where any portion of the PUD site is located within an area zoned R-A or R-R, a portion of the required open space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 100 feet, not including public street right-of-way, and shall remain in its natural condition or be landscaped to help reduce the view of houses on site from the adjacent street and preserve the rural view;
    - d. leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public street rights-of-way;

- e. protects the rural roadside character by establishing buffer zones along scenic corridors and improves public safety and vehicular carrying capacity by avoiding development that fronts directly on to existing roadways;
  - f. shall be configured so the open space is reasonably usable by residents of the PUD;
  - g. the minimum size of a required open space shall be 10,000 square feet; provided, however, the required open space abutting a public street may be less than 10,000 square feet; and, further provided, that the planning commission may recommend and the township board may approve other open space areas of less than 10,000 square feet if those areas are designed and established as pedestrian or bicycle paths or are otherwise determined to be reasonably usable by residents of the PUD;
  - h. shall be of sufficient size and dimension and located, configured, or designed in such a way as to achieve the applicable purposes of this chapter and enhance the quality of the development. The open space shall neither be perceived nor function simply as an extension of the rear yard of those lots abutting it;
  - i. to the extent practical, open space areas shall be linked with adjacent open spaces, public parks, bicycle paths or pedestrian paths;
  - j. shall be located so as to be reasonably accessible to all residents of the PUD. Pedestrian access points to the required open space areas from the interior of the PUD shall be provided and shall be clearly identified by signs or a visible improved path for safe and convenient access;
  - k. grading shall be minimal, with the intent to preserve existing topography and landscaping where practical; and
  - l. may contain ball fields, tennis courts, swimming pools and related buildings, community buildings, golf courses, and similar recreational facilities. However, no more than 50% of the required open space may contain any of these uses.
3. Open Space Reduction and Waiver. A lesser percentage, or no percentage, of minimum open space as may be permitted by the Township in its approval of the PUD, upon approval by the Township Board, based on its determination that the reduction in minimum open space satisfies one or more of the following criteria:
- a. That the otherwise required percentage of minimum open space is not reasonably necessary for the PUD, in view of the type or nature of the development, the amount of existing open space to be retained or other relevant aspects of the PUD plan.
  - b. That there are other features and amenities of the PUD that, taken together, justify the reduction in the percentage of required minimum open space.
  - c. That the PUD, in its various aspects and benefits, and with the reduction in the percentage of required minimum open space, would nevertheless reasonably achieve the general objectives of a PUD as provided in this Chapter.

## Section 7.5                      Review Procedures

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The following procedures shall be followed for the review and consideration of any planned unit development:

- A. **Pre-application Conference.** Prior to filing a formal application for a planned unit development, the applicant shall meet with the zoning administrator and/or other township officials and consultants in order to review the general character of the proposed development, i.e., its scope, nature and

location. At this time, the applicant shall be advised of the PUD review procedures and the various information, studies, etc., which may be required as part of the review process.

- B. Preliminary PUD Application.** An application for rezoning to PUD shall be submitted to the zoning administrator on a form for that purpose, along with an application fee in accordance with the schedule of fees established by the township board. In addition, the application shall include the following:
1. Preliminary development plan. A preliminary development plan containing the following information shall be submitted:
    - a. general location map;
    - b. legal description of the subject property;
    - c. title block, date, north arrow, scale, name and contact information of applicant and name and contact information of plan preparer;
    - d. current topographical map clearly showing existing topographic conditions, including contour intervals of no more than two (2) feet, based on field survey or photo-grammetric methods;
    - e. location of existing natural features including woods, streams, ponds, wetlands and steep (25 percent or greater) slopes;
    - f. existing land uses within the development site and surrounding areas for a distance of one-quarter mile, including the approximate location of all buildings, structures, lots and streets;
    - g. location and identification of existing and proposed public, semi-public, or community facilities such as schools, parks, trails, churches, public buildings and dedicated open space;
    - h. existing zoning on all abutting properties;
    - i. approximate location of existing and proposed utilities, including a preliminary utility and drainage concept plan;
    - j. conceptual layout and type of uses proposed within the PUD;
    - k. number and type of dwelling units proposed;
    - l. general location of proposed interior streets and access points to abutting streets;
    - m. number and location of off-street parking facilities; and
    - n. perspective drawings or photos of representative building types, indicating the proposed architectural style and appearance.
  2. Summary of intent. A written statement containing the following information shall be submitted with the preliminary development plan:
    - a. statement of how the proposed PUD meets each of the qualifying conditions of *Section 7.2*;
    - b. statement of the present ownership of all land within the proposed development;
    - c. explanation of the character of the proposed development including a summary of acres by type of use, number and type of dwelling units, gross density calculation for dwelling units, and minimum standards for floor area, lot size, and setbacks;
    - d. a complete description of any requested modifications from the applicable spatial or other requirements applying to the property, in accordance with *Section 7.4.C*.
    - e. general statement of the proposed development schedule and progression of each phase or

stage; and

- f. outline of intended agreements, provisions, and covenants to govern the use of the development, building materials or architectural styles and any common or open space areas, including the provisions which will organize, regulate and sustain the property owners' association, where applicable.

**C. Preliminary PUD Plan and Rezoning.**

1. Planning Commission review. Upon receipt of the PUD application and related materials, the planning commission shall conduct a work session with the applicant to review the development concept and determine the need for additional information, prior to conducting a public hearing.
2. Additional information. If required by the planning commission, the applicant shall submit additional information and/or studies to support the request which may include, but is not limited to the following:
  - a. A community impact assessment describing the effect and impact, whether adverse or otherwise, that the proposed PUD will or may have upon or with respect to:
    - (1) adjacent and nearby lands; streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife; and trees and other significant vegetation;
    - (2) population increase in the township and enrollment in the local school system;
    - (3) fiscal impact of additional costs and revenues to the township and other applicable governmental jurisdictions for streets, police and fire protection, storm water drainage, water supply and sewage disposal, administrative services, and education;
    - (4) noise, vibration, dust and dirt, litter, smoke, odor, light, and glare; and
    - (5) such other matters as the planning commission may request to be included.
  - b. traffic impact study, in accordance with the Byron Township requirements;
  - c. economic feasibility study for the principal uses of the proposed PUD, indicating the market to be served, need for the proposed use(s), and expected absorption;
  - d. analysis of the nature and effect of storm water control and retention facilities, and water supply and distribution systems. This may include hydraulic, hydrologic, and drainage engineering studies.
3. Public hearing. Upon completion of its initial review and following receipt of any additional materials, the planning commission shall conduct a public hearing, notice of which shall be in accordance with the requirements of *Section 14.7*.
4. Recommendation. Following the public hearing, the planning commission shall review the PUD request and the preliminary development plan, based on conformance with the standards of *Section 7.6* and shall make a recommendation to the township board to approve, disapprove, or approve with modifications the request for PUD zoning and the preliminary development plan.
5. Township Board action. Upon receipt of the planning commission recommendation, the township board shall conduct a public hearing, in accordance with the requirements of *Section 14.7*. Following the hearing, the township board shall review the preliminary development plan, the recommendation of the planning commission, the standards of *Section 7.6* and shall approve, disapprove, or approve with modifications the preliminary development plan and rezoning request.

6. Zoning map. If the PUD zoning is approved, the zoning administrator shall cause the zoning map to be changed to indicate the planned unit development. If the preliminary development plan is approved with modifications, the applicant shall file with the zoning administrator written notice of consent to the modifications and a properly revised preliminary development plan prior to the official map being changed.
- D. **Final Development Plan.** Within 12 months of the township board's approval of the preliminary development plan and PUD rezoning, the applicant shall submit a final development plan for the entire PUD, or one or more phases, to the zoning administrator, in accordance with the requirements for final site plan review as contained in *Section 11.3* of this ordinance. If determined to be complete by the zoning administrator, copies of the plan shall be forwarded to the planning commission.
1. Extension of Time Limit. One extension of the time period for submitting the final development plan may be granted by the township board for up to an additional 12 months, if a request is submitted by the applicant, in writing, prior to the expiration of the original 12-month approval period. As a condition of any PUD rezoning, if an application for final development plan approval has not been submitted prior to the expiration of the original 12 months or an approved extension, the preliminary development plan and the ordinance(s) rezoning such lands to the planned unit development district (including any associated ordinance concurrently rezoning the lands to a Base District when such rezoning was effective only upon concurrent rezoning to a PUD District) shall be null and void and the land shall thereafter be included in the zoning district applicable immediately prior to such concurrent rezonings, as if such rezonings had never occurred.
  2. Review and Action. The planning commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions or modifications attached to the PUD rezoning by the township board. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with *Section 7.5.C*, and the planning commission shall make a recommendation to the Township Board which shall approve, disapprove or approve with conditions the new preliminary development plan. If the final development plan is consistent with the approved preliminary development plan, the planning commission shall review the final plan in accordance with the standards for final site plan review, *Section 11.6* and the PUD standards of *Section 7.6*. The planning commission shall then approve, disapprove, or approve with modifications the final development plan.
  3. Phased projects. If the PUD is to be developed in phases, the final development plan may be submitted for one or more phases of the overall PUD. The applicant must submit a request for final development plan review of the initial phase within 12 months of the township board's approval of the PUD rezoning and the preliminary development plan. A tentative schedule for the completion of each phase and the commencement of the next phase shall also be submitted for approval by the planning and zoning board.
- E. **Subdivision and Condominium Approval.** At the option of the applicant, a preliminary subdivision plat, preliminary site condominium plan, or preliminary condominium project plan may be filed along with the preliminary development plan in order that tentative approval the planning commission may be granted, pending the approval by the township board of the preliminary development plan.
- F. **Construction.** Construction shall have commenced and proceeded meaningfully toward completion within 12 months of the date of final development plan approval, in accordance with the following:
1. Except as otherwise provided in subparagraphs 1.a and 1.b, as a condition attached to the rezoning, construction must be commenced as provided herein or the rezoning shall be null and

void. If construction has not commenced within 12 months, the applicant may request one extension of up to 12 additional months. The request shall be submitted, in writing, to the Planning Commission prior to the expiration of the original 12-month time limit and shall provide reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD. If an extension is not requested or is not submitted prior to the expiration of the original time limit, the PUD final development plan, and the ordinance(s) rezoning the land to the planned unit development district (including any associated ordinance(s) concurrently rezoning the land to a Base District when such rezoning was effective only upon concurrent rezoning to a PUD District) shall be null and void and the land shall thereafter be included in the zoning district applicable immediately prior to such concurrent rezonings, as if such rezonings had never occurred.

- a. If a final development plan was approved prior to, but less than two years before, the date of adoption of this Ordinance and construction has not commenced and proceeded meaningfully toward completion, the Planning Commission may, in its discretion, grant one extension not exceeding six additional months. A written request for that extension shall be submitted within three months of the adoption date of this Ordinance. In that written request, the applicant shall provide reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD.
  - b. If a final development plan was approved two years or more before the date of adoption of this Ordinance and construction has not commenced and proceeded meaningfully toward completion, the approval shall expire three months following adoption of this Ordinance and no extension of the time limit shall be considered or granted.
2. If a request for time extension is authorized and properly submitted, the Planning Commission shall consider the request at a public meeting and may grant one extension based on a finding that unforeseen difficulties or special circumstances have been encountered that caused a delay of construction.
  3. In the event meaningful progress toward completion has not commenced within the original 12-month period or an approved extension, any building permits or other permits issued by the township for construction within the PUD shall be of no further effect.
  4. Upon expiration of the time limits described above, the rezoning ordinances and any approved Development Plan shall be deemed null and void as provided in Sections 7.5.D.1 and 7.5.F.1.
  5. For purposes of this section, meaningful progress toward completion shall mean, at a minimum, all of the following: site clearing, rough grading, and installation of infrastructure improvements such as underground utilities.

## **Section 7.6                      Review Standards**

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In considering the PUD request, the reviewing body must find that the proposed development meets all applicable requirements and qualifying conditions, as well as the following general standards:

- A. The PUD will comply with the standards, conditions, and requirements of this chapter.
- B. The PUD will promote the intent and purpose of this chapter.
- C. The proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
- D. The proposed project will not be detrimental to the public health, safety, and welfare of the

Township.

- E. Granting the PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, which would not otherwise be feasible or achievable under the conventional zoning districts.
- F. The PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
- G. The PUD will be consistent with the township's master plan and consistent with the intent and purposes of this chapter. Specifically, the following planning principles shall be adhered to, as applicable:
  - 1. preserving existing views along roads where natural vegetation, open fields and meadows, and woods predominate;
  - 2. protecting and preserving existing natural features and resources including wetlands, woodlands, streams, creeks, steep terrain and rural vistas;
  - 3. creating greenway corridors of preserved open space, buffers adjacent to wetlands, and no disturb zones along streams and creeks; and
  - 4. providing appropriate buffers and transitions with uses adjacent to the PUD.
- H. The PUD will not result in significant adverse effects upon nearby or adjacent lands in the township, and will not change the essential character of the surrounding area.
- I. The PUD will respect or enhance the established or planned character, use and intensity of development within the area of the township where it is to be located.
- J. The PUD shall include integrated, safe, and interconnected pedestrian access and movement within the PUD and, where appropriate, to adjacent properties.
- K. Building forms, relationships and styles shall be harmonious and visually integrated through the use of common materials, colors, treatment and scale.
- L. The PUD shall provide for safe and efficient vehicular movement within, into and out of the PUD site. Traffic calming techniques, parking lot landscaping, and other sustainable design solutions shall be employed to improve traffic circulation, storm water management, pedestrian safety and aesthetic appeal.

## **Section 7.7                      Changes to an Approved PUD**

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Changes to an approved PUD shall be permitted only under the following circumstances:

- A. **Notify Zoning Administrator.** The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD.
- B. **Minor Changes.** The following listed minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. The zoning administrator, at his/her sole discretion, may refer the requested minor change to the Planning Commission for review or may request a Planning Commission determination regarding whether a proposed change is a minor or major change.
  - 1. reduction of the size or lot coverage of any building;

2. reduction in the size of any sign;
3. movement of buildings and/or signs by no more than ten feet;
4. landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
5. building additions, of up to ten percent of the total floor area but not more than 2,000 square feet, which do not alter the character of the use;
6. internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design;
7. movement of or alterations to proposed storm water management facilities, such as detention or retention ponds, related to a reduction in the lot coverage of a building or buildings, provided, such movement or alteration is first reviewed and approved by the Township engineer;
8. changes required or requested by the township board or planning commission or other county, state or federal regulatory agency in order to conform to other laws or regulations; and
9. other changes of a minor nature determined by the zoning administrator to be not material or significant in relation to the entire PUD or its permitted land uses.

C. **Planning Commission Minor Changes.** The Planning Commission may approve the following listed minor changes without a public hearing or ordinance amendment:

1. dimensional modifications up to 10 percent;
2. movement of buildings up to 50 feet;
3. internal rearrangement of a parking lot that does not affect the number of parking spaces more than 25 percent;
4. building additions up to 25 percent of total floor area, but not more than 10,000 square feet; and
5. Addition of a use listed in the Base District as a special land use, if such use is not prohibited by the ordinance authorizing the PUD. This change requires Township Board approval, after a Planning Commission recommendation.

D. **Township Board Major Changes.** Changes that do not qualify as minor changes under *Section 7.7.B* or *C* shall be processed in the same manner as the original PUD application, in accordance with *Section 7.5.C*.

## **Section 7.8 Appeals**

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The zoning board of appeals shall have no jurisdiction or authority to accept or consider an appeal from any PUD determination or decision, or any part thereof, nor shall the zoning board of appeals have authority to grant variances for or with respect to a PUD or any part thereof.



# Chapter 8 Use Requirements

## Section 8.1 Specific Use Requirements

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- A. Specific requirements apply to all of the uses listed in this Chapter. These requirements apply in addition to all of the regulations of the zoning district in which the use is located, as well as all other applicable requirements in this ordinance.
- B. A use identified in this ordinance as a special land use shall be established only according to the procedures and standards of Chapter 9 All standards listed in this Chapter, in addition to the general standards for special land uses listed in Section 9.5, shall be met.

## Section 8.2 Adult Entertainment Uses

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- A. **Intent.** In the development and execution of these zoning regulations, it is recognized that some uses, because of their very nature, may have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of adult entertainment uses to certain uses considered particularly susceptible to the negative impacts of the concentration of sexually oriented uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime, and contribute to a blighting effect on the surrounding area. There is convincing documented evidence of the deleterious effect that adult entertainment uses have on both existing businesses around them and the surrounding residential areas to which they be adjacent. Therefore, the following intents are served by these regulations:
  - 1. This section describes the uses regulated and the specific standards necessary to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.
  - 2. These provisions are not intended, nor shall they have the effect of, imposing a limitation or restriction on the content of any communicative materials including, but not limited to, sexually oriented materials that are protected by the First Amendment to the United States Constitution.
  - 3. Additionally, it is not the intent of the provisions of this section, nor shall it have the effect of, restricting or denying access by adults to sexually oriented materials that are protected by said federal and state constitutions.
  - 4. Further, it is not the intent of these provisions, nor shall they have the effect of, denying access by the distributors and exhibitors of sexually oriented entertainment to their target market.
  - 5. These regulations shall not be interpreted as intending to legitimize any activities that are prohibited by federal or state law, or by any other ordinance of Byron Township.
- B. **Uses Regulated.** The following uses are regulated by this subsection and defined for purposes of regulating adult entertainment uses:
  - 1. Adult Arcade
  - 2. Adult Book Store

3. Adult Cabaret
4. Adult Motel
5. Adult Motion Picture Theater
6. Massage Parlors

**C. Regulations.**

1. No adult entertainment use shall be permitted in a location in which any principal building or accessory structure, including signs, is within 1,320 feet of any principal building or accessory structure of another adult entertainment use.
2. No adult entertainment use shall be established on a parcel within 1,320 feet of any parcel in a residential district or any parcel used for a single- or multiple-family residence, public park, school, child care facility, church or similar place of worship, public library, township offices, police department or fire department, youth center, or commercially operated school attended by children such as, for example, dance schools, gymnastic centers, etc. The distance between a proposed adult entertainment use and any such zoned area or existing use shall be measured in a straight line from the nearest property line upon which the proposed adult entertainment use is to be located to the nearest property line of that zoned area or existing use.
3. Any sign or advertising for the adult entertainment use must comply with the provisions of this ordinance. No sign or advertising may include photographs, silhouettes, or drawings of any specified anatomical areas or specified sexual activities, or obscene representations of the human form and may not include animated or flashing illumination.
4. The entrances to the proposed adult entertainment use at both the exterior and interior walls, in a location visible to those entering and exiting the business, must be clearly marked with lettering at least two inches in height stating:
  - 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."
5. 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 by a person of normal visual acuity from the nearest adjoining roadway or a neighboring property.
6. Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., Monday through Saturday.
7. All off street and on-site parking areas shall comply with this ordinance, based on the primary use (i.e., retail, assembly, etc.) and shall additionally be illuminated at all times.
8. Any booth, room or cubical available in any adult entertainment use that is used by patrons for the viewing of any entertainment shall:
  - a. Be unobstructed by any door, lock or other entrance and exit control device;
  - b. 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;
  - c. Be illuminated such that a person of normal visual acuity looking into the booth, room or cubical from its entrance adjoining the public lighted aisle can clearly determine the number of people within;
  - d. Have no holes or openings in any side or rear wall not relating to utility, ventilation or temperature control services or otherwise required by any governmental code or authority.

- D. **Conditions of Approval.** Prior to granting approval for the establishment of any adult entertainment use, the township board may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the adult entertainment use necessary for the protection of the public interest. Any bond or other performance guarantee may be required as proof that the conditions stipulated will be fulfilled.
- E. **Access to Minors.** No person operating an adult entertainment use shall permit any person under the age of 18 to be on the premises of the business as an employee, customer, or otherwise.

### Section 8.3                      Adult Care Facilities

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Homes or facilities which provide room and board, supervision, assistance, protection, or personal care to more than six adults, including nursing homes, convalescent homes, or homes for the aged, exclusive of hospitals, may be permitted by the Planning Commission in an MFR District.

- A. **Height.** No building shall exceed a maximum of two and one half stories or 35 feet in height, whichever is less.
- B. **Front Yards.** No building shall be located closer than 35 feet to any street right-of-way.
- C. **Side Yard.** No building shall be closer to any side lot line than 25 feet.
- D. **Rear Yard.** There shall be a rear yard of at least 40 feet.
- E. **Floor Area.** There shall be a minimum usable floor area of at least 250 square feet per occupant.
- F. **Lot Area.** There shall be a minimum lot area of 2,000 square feet for each occupant, provided, no lot shall contain less than 10,000 square feet.
- G. **Lot Width.** No lot shall be less than 130 feet in width. All lots shall meet the provisions of *Section 3.3.C* regarding lot widths on major streets.
- H. **Parking.** Off-street paved parking areas shall be provided at a ratio of one space per two beds plus one space for each owner or operator.
- I. Each adult care facility shall be adequately screened from adjacent properties by a fence or planted strip so as not to be a detrimental influence upon the surrounding area.
- J. All adult care facilities shall contain a basement sufficient in size to accommodate all residents and employees during periods of high winds or tornados.

### Section 8.4                      Adult Foster Care Group Homes

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- A. One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory use.
- B. A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
- C. A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
- D. A landscaped buffer shall be provided along all property lines that abut a less intense use and around all parking and loading/unloading areas

## **Section 8.5                    Airfields , Landing Strips & Heliports**

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Private airfields or landing strips that are accessory to a permitted agricultural or industrial use on the same property are permitted subject to the following:

- A. The safety of the citizens of Byron Township shall not be adversely affected by the use.
- B. The use will not adversely affect existing or future nearby development.
- C. Takeoff and landing patterns within 1,000 feet of the end of a runway shall not pass overhead of an occupied structure. To prevent the development of future structures within the 1,000 foot safety zone, control by the owner of the airfield or landing strip of any affected property shall be secured by a restrictive easement and/or property ownership.
- D. Not more than two airplanes, one of which shall be owned by the owner of the premises, may use the airfield or landing strip.
- E. An airfield or landing strip shall be at least 200 feet from a property line.
- F. Development shall conform to all Federal Aviation Administration rules and regulations.

## **Section 8.6                    Bed and Breakfasts**

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- A. Proof shall be submitted that an application has been made to obtain state and county licenses. Required licenses shall be obtained prior to commencing the use.
- B. The establishment shall have the required frontage on and direct access to a public road and not via a private road or shared easement.
- C. A bed and breakfast use shall only be established in a detached single family dwelling, which shall also be the principal residence of the operator.
- D. The lot on which the bed and breakfast establishment is located shall meet all minimum lot requirements of the applicable zone district.
- E. The total number of guest rooms in the establishment shall not exceed six. There shall be at least one full bathroom for every two guest rooms.
- F. The length of stay for a guest or guests shall not exceed 30 consecutive days.
- G. Exterior refuse storage, beyond that which is normally expected for a detached single family dwelling, shall be screened from view on all sides by a six foot solid fence or wall.
- H. One sign, not more than eight square feet and four feet in height, shall be allowed. Signs shall only be indirectly illuminated and conform to the regulations in *Section 12.4*.
- I. Meals shall only be served to the operator's family, employees and overnight guests.

## **Section 8.7                    Commercial Boarding Stables/Riding Academies**

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- A. **Site requirements.**
  - 1. Ten acres is required for the first seven horses, plus one-half acre for each additional horse kept at a commercial boarding stable or riding academy.
  - 2. At least one off-street parking space shall be provided per two animals, based on the number of horse stalls or the maximum number of horses that can be accommodated.
  - 3. Commercial boarding stables or riding academies shall not be located in a platted subdivision.

**B. Performance standards.**

1. Animals shall be confined to a fenced paddock, preventing them from approaching within 50 feet of a dwelling on an adjacent property.
2. A grass strip of land at least 50 feet wide shall be maintained between all animal holding areas, manure piles and manure application areas and all ponds, creeks and wells. The Planning Commission may increase the width of the grassed area on sites with slopes over five percent to minimize runoff, prevent erosion and promote nutrient absorption.
3. A manure storage area shall be at least 75 feet from a dwelling, wellhead, pond or creek and least 25 feet from a property line.
4. Manure piles shall be stored, removed and/or applied in accordance with Michigan Department of Agriculture and Kent County Health Department regulations.
5. All horses shall be sheltered in separate stalls that are at least 10 feet by 10 feet.
6. Dust and drainage shall not create a nuisance or hazard to adjoining property or uses.
7. Sites containing an enclosed riding arena associated with a commercial boarding stable shall be at least 10 acres.
  - a. The arena shall not exceed 10,000 square feet, gross floor area. An additional 1,500 square feet of floor area may be permitted for each additional acre over ten, provided no riding arena shall not exceed 15,000 square feet, gross floor area.
  - b. An arena shall be at least 50 feet from all property lines.

**C. Horse show facilities.** Western, dressage, hunt and similar types of shows or competitions, excluding rodeos, may be held at an indoor or outdoor riding facility, subject to the following additional requirements:

1. A site plan shall be reviewed and approved by the Planning Commission each calendar year.
2. In determining the number of required parking spaces, the Planning Commission shall take into account the hours of operation and types of activities conducted at the horse show facility. A parking-demand study, provided by the applicant, may be required to determine parking requirements.
3. Shows, which include spectators and participants, shall only be conducted during evenings and on weekends. Parking related to such activities shall be accommodated on the site and not on other properties or streets.
4. Parking areas shall be at least 25 feet from any property line.
5. For outdoor events, either portable or permanent restrooms shall be provided that comply with Kent County Health Department standards. Permanent indoor restrooms that meet Kent County Health Department standards are required for all indoor events.
6. Not more than four shows shall be conducted each calendar year.
7. Multi-day shows or events are not permitted. There shall be at least seven days between shows or events.

## **Section 8.8**                    **Campgrounds**

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- A. A campground shall only be used to temporarily place tents, travel trailers and recreational vehicles on a site and shall be developed in accordance with Act 368 of 1978 (Public Health Code), as amended and Administrative Rules and Regulations promulgated subsequent to the Act, as amended.
- B. Up to two permanent dwelling units may be permitted. Such dwelling units shall only be occupied by the owner or a campground employee. Cabins erected for camping purposes are not considered a permanent dwelling unit.
- C. A site shall be at least 20 acres.
- D. All campsites shall be accessed by a paved drive, at least 20 feet wide. Parking shall be prohibited along any drive, unless a 10 foot wide parking lane is added to accommodate parallel parking.
- E. Parking, in addition to that required under *Section 12.3*, shall be provided for the maximum expected use. All parking areas and areas designated for vehicle traffic shall be paved.
- F. A campground shall have an approved method of collecting, conveying and disposing of all sewage and liquid wastes.
- G. Each campsite may have a designated fire pit.
- H. All campsites shall be located within 300 feet of a potable water supply.
- I. Toilets, urinals, showers and lavatories for each gender, approved by state and county health departments, shall be provided at a ratio of one per 20 campsites and shall contain hot and cold running water. Each camp site shall be located within 300 feet of a toilet and bathing facility.
- J. A campsite shall be not less than 1,500 square feet.
- K. All buildings, structures, accessory uses or campsites shall be set back at least 150 feet from a property line.
- L. Perimeter fences and/or buffers may be required by the Planning Commission.
- M. Ancillary businesses such as laundry, gift shop, snack bar and video arcade may be conducted on the premises for the use of campers and their guests.

## **Section 8.9**                    **Cemetery**

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- A. A site shall be at least 20 acres.
- B. Not more than five percent of the site may be occupied by buildings.
- C. All ingress and egress shall be directly from a paved street.
- D. All burial plots and structures, such as a mausoleum, shall be at least 20 feet from a property line or road right-of-way.
- E. Cemetery parking shall be adequately provided on-site and shall not be allowed on an adjacent public street. All on-site parking areas shall be least 50 feet from a property line.
- F. All in-ground burial areas shall be designed and constructed in accordance with the requirements of the Kent County Health Department and the State of Michigan.

## Section 8.10 Composting Facilities

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### A. Nature of composting material.

1. The operation shall not involve the processing, storage or on-site handling of general household refuse and shall be limited to the processing of source separated yard waste and agricultural by-products, including, but not limited to, the following: leaves, grass clippings, brush, garden waste, tree trimmings, plant cuttings and similar woody waste or other vegetative by-products.
2. The on-site processing of mixed refuse consisting of paper, textiles and other organic material classified as mixed municipal solid waste shall be permitted only if the site has been identified and included in the Kent County Solid Waste Management Plan. A mixed municipal solid waste facility shall first be approved and licensed by the State of Michigan as a Solid Waste Processing Facility as defined by Public Act 641 of 1978, as amended.

### B. Site development requirements.

1. To ensure maximum flexibility for operations and material isolation and buffering a composting site shall be at least 20 acres.
2. The site shall have direct access to a paved county primary road and all access shall be limited to that road.
3. All windrows, material screening areas and material staging areas, used to temporarily stockpile material prior to placement in windrows, shall be located at least 150 feet from a property line and at least 1,000 feet from a residential dwelling or any residential lot within a platted subdivision or site condominium.
4. Prevailing winds shall be considered regarding the location of material handling, staging and processing areas which shall be situated to maximize isolation and screening from adjacent properties.
5. Material stockpiling and processing areas shall be at least 200 feet from a wetland, floodplain or surface waters.
6. Site grading shall prevent surface water ponding and leachate runoff.
7. A composting facility shall not be established where the prevailing water table is less than 10 feet below natural grade. Soil borings, as approved by the Township, shall be taken to determine water table depth.
8. To reduce dust, all primary access drives shall be paved; internal service drives may be paved or gravel.

### C. Additional considerations. In addition to a site plan, an Operations and Management Plan shall be submitted to the Township and contain the following:

1. Type of organic material to be composted and otherwise processed on the site.
2. Hours of operation and access by the public, if any.
3. Type of equipment to be utilized.
4. Size of windrows and rates of turning.
5. Method of irrigation and source of water.
6. Security measures, such as gates and fences.

7. Operation and management techniques to minimize odors.
8. Landscaping and buffering plans.
9. Measures to address any non-compostable materials, such as plastic bags.
10. Any related on-site accessory uses.
11. Prior to final approval, the applicant shall demonstrate that all appropriate county and state agency permits have been obtained.

### **Section 8.11 Contractor's Facilities**

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- A. All site ingress and egress shall be directly from a paved street.
- B. Outdoor storage areas for vehicles, materials and any equipment used in connection with the business shall be fenced and screened.
- C. All materials used in connection with the business shall be confined to a fenced and screened area or an enclosed building.
- D. Except for temporary staging and retrieving materials and equipment within a fenced and screened outdoor storage area, all work associated with the business shall be conducted indoors.

### **Section 8.12 Correctional Institutions**

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Establishments for the care, confinement or rehabilitation of delinquent, socially maladjusted, emotionally disturbed, alcoholic or other drug addicted persons are only permitted under the following conditions:

- A. **Lot size.** A property shall be at least 25 acres, excluding public rights-of-way, and at least 1,000 feet wide.
- B. **Application.** An application shall be accompanied by the following documents, where applicable:
  1. A description of the security system to control persons entering or leaving the premises, including the number and type of security personnel to be employed.
  2. A certificate describing the hours of operation, visitation and the hours during which persons may be permitted to leave the premises.
  3. A certificate showing that relevant personnel have been issued all required county and/or state licenses.
  4. An agreement with the Board of Education when those confined at the institution are being educated through the public school system.
- C. **Yards.**
  1. A structure that houses or is frequented by persons serving or being treated at the correctional institution shall be at least 300 feet from a lot line.
  2. Other structures, except for paved areas, shall be at least 100 feet from a lot line.
- D. **Improvements.** The following improvements and standards shall be met:
  1. Concrete sidewalks that are at least 5 feet wide shall connect all buildings. All internal drives shall have a sidewalk that is at least 5 feet wide along one side, which shall connect to perimeter walks along bordering streets.



2. All utilities shall be underground.
3. Site lighting shall be provided for security purposes and to illuminate outdoor areas frequented by staff, occupants or visitors.
4. The site shall be served by public water and sewer unless otherwise approved by the county health department, state and Township engineer.
5. Except for nonresident employees, no more than 24 persons shall be accommodated at a building, unless constructed using fireproof materials and methods, such as sprinkling.
6. All buildings that house or are frequented by people shall meet emergency firefighting equipment requirements, as approved by the State Fire Marshal.
7. A water system with adequate pressure for fighting fires or an outdoor water impoundment deemed adequate for fighting fires shall be provided.
8. Storm drainage shall be approved by the county drain commissioner.
9. Any other improvement deemed necessary by the Planning Commission to meet the intent of this Chapter.

### **Section 8.13 Child Care Centers**

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- A. A child care center shall be licensed by the Michigan Department of Human Services or a successor agency as a child care center under the terms of the Child Care Organizations Act, Act 116 of the Public Acts of Michigan of 1973, as amended, or its successor statute. Copies of current licenses shall be submitted to the Township promptly after a license has been issued or renewed.
- B. **Site and building requirements.**
  1. A property shall be at least 40,000 square feet and comply with minimum lot width requirements of the zoning district.
  2. The property shall front on and have direct vehicle access to a county primary road, as designated by the township's Community Master Plan.
  3. Public water and sewer service is required.
  4. The center shall not be in a dwelling unit.
  5. Buildings shall comply with district setback and height requirements; however, the Planning Commission may require increased setbacks or reduced building heights based on the context of surrounding uses and the character of development.
  6. Minimum 50 square feet of indoor play area is required per child under care.
  7. Minimum 100 square feet of fenced outdoor play area per child using the play area at any one given time. However, an outdoor play area shall not be less than 2,000 square feet and shall be enclosed by a chain-link or comparable fence, at least four feet tall. A solid, six foot tall fence, with associated landscaping, may be approved by the Planning Commission.
  8. In addition to fencing, the Planning Commission may require other measures to screen and buffer a child care center based on views from or potential impacts to adjacent properties or uses. These may include additional landscaping, beyond that which is required, berms and building placement.

9. Outdoor lighting shall be designed and operated using full sharp cutoff fixtures to avoid glare and or other adverse impacts on adjacent properties.
10. All signs shall comply with the applicable requirements for the zoning district in which the child care center is located.

**C. Circulation and parking.**

1. The layout of the site and traffic circulation plan shall carefully consider the interface between motor vehicles, children and other pedestrians and shall not result in unsafe or hazardous conditions. Accordingly, vehicle entrances and exits shall be designed, configured and located so that safety for vehicle occupants and pedestrians is maximized. The Planning Commission may require terms and conditions regarding the design and placement of site entrances and exits, parking areas, drive aisles, sidewalks and other pedestrian areas, including those where children may congregate while entering a building or waiting to be picked up.
  2. Child drop-off and pick-up parking spaces shall be provided along with a designated pedestrian route to the main building entrance. At least four such parking spaces shall be provided per 20 children, based on licensed capacity. These spaces shall be counted toward parking space requirements.
- D. The Planning Commission may impose terms and conditions, including but not limited to the maximum permitted capacity of the child care center and the maximum area of a principal building.

**Section 8.14 Drive-Through Facilities (Not Including Restaurants)**

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- A. At least three stacking spaces shall be provided for each drive through lane. The Planning Commission may require additional stacking spaces based on the use and anticipated traffic volumes.
- B. Businesses with drive through facilities located within or adjacent to an integrated commercial development or a cluster of commercial enterprises shall share access with all other business establishments.
- C. Site access and circulation shall be designed to minimize traffic conflicts, congestion and disruption and enhance traffic safety on abutting public and private streets and drives.
- D. Loudspeakers shall be modulated so that any generated sound is not audible beyond property boundaries.

**Section 8.15 Farm Implement Sales, Service and Rentals**

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Only new and operable equipment, tractors and implements shall be displayed outdoors. Any inoperable farm equipment, tractors and implements shall be stored inside a completely enclosed building or behind a fence so that it is not visible from a public street or an adjoining property.

**Section 8.16 Farm Markets**

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- A. Meat packaging or selling meat or processed foods primarily intended for offsite consumption is not allowed, unless a license has been secured from the State of Michigan.
- B. All buildings and sales and activity areas shall be at least 25 feet from a road right-of-way.
- C. All vehicular access to a farm market shall be at least 60 feet from a street intersection, measured along the rights-of-way.

- D. Parking for a farm market shall not be located within a public right-of-way. At least five off-street parking spaces shall be provided and located so they can be safely and conveniently used by customers. All maneuvering necessary to enter or exit a parking space shall occur on the property containing the farm market.
- E. At least 50 percent of the floor area of the farm market shall be devoted to products produced on and by the farm or agricultural enterprise. If for some reason floor area cannot be adequately determined, then the determination will be based on 50 percent of the gross sales at the farm market. The sale of other items shall be limited to agriculturally related products, as defined in this Ordinance.
- F. A farm market shall conform to the Generally Accepted Agricultural Management Practices, as adopted by the Michigan Commission of Agriculture.

### **Section 8.17 Funeral Homes and Mortuaries**

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- A. The business shall be located on and have direct access to a county primary road, as classified in the township's Community Master Plan.
- B. An adequate off-street assembly area shall be provided to stage vehicles for a funeral procession.
- C. The off-street assembly area shall be in addition to required off-street parking.
- D. A caretakers residence may be located within or attached to the main building.
- E. All parking shall be located in the side or rear yard.

### **Section 8.18 Garage Sales or Yard Sales**

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- A. Garage sales or yard sales are permitted in residential districts in accordance with the provisions of this section.
- B. Signs advertising garage or yard sales are subject to the applicable provisions of *Section 12.4*.
- C. Signs advertising yard or garage sales, any remaining goods or items offered for sale and outdoor tables and other equipment shall be immediately removed at the conclusion of the sale.

### **Section 8.19 Group Day Care Homes**

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- A. **Location requirements.** A group day care home shall not be closer than 1,500 feet to another licensed group day care home, an adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, PA 218 of 1979, MCL 400.701 et seq., a facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under article 6 of the Michigan Public Health Code, PA 368 of 1978, MCL 333.6101 et seq., or a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. **Site requirements.**
  1. All outdoor play areas shall be enclosed by a fence that is at least four feet high.
  2. In addition to the required parking for the residence, an off-street drop-off area that can accommodate at least two vehicles shall be provided. A driveway may be used for this purpose.
  3. One on-site parking space shall be provided for an assistant provider or caregiver who is a resident of the premises.

4. Playground equipment shall not be located in a front or side yard.
5. One sign is permitted, provided:
  - a. It is for identification purposes only and does not exceed four square feet.
  - b. It is not internally illuminated.
- C. **Buffering requirements.** Adequate provision shall be made to reduce noise impacts on surrounding residential properties.
- D. **Performance standards.** The operation and maintenance of a group day care facility shall conform to existing and applicable County and State regulations.

## **Section 8.20 Home-based Business**

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### **A. General Requirements.**

1. A home based business may be permitted in the R-A and R-R districts as a special land use in accordance with this subsection.
2. The following shall not be permitted as home based businesses:
  - a. independent trucking
  - b. waste hauling and sanitary services
  - c. paint and/or body shops
  - d. automotive, truck or heavy equipment repair; provided minor repair of personal automobiles may be permitted, not exceeding three vehicles at any one time
  - e. junk yards or scrapping operations
  - f. retail sales, except for sales of goods produced by the home based business
3. The home-based business shall not be used as an attempt to establish a commercial or industrial use in a residential area.
4. The parcel containing the home based business shall contain a single family dwelling as the principal use and the business shall be owned and operated by a full-time resident of the dwelling located on the property.

### **B. Minimum Lot Area.** For the following home based businesses, the minimum lot area shall not be less than five acres:

1. Any business requiring 1,000 square feet of gross floor area or greater, within an accessory structure or combined within the dwelling and an accessory structure;
2. Any business utilizing heavy equipment, trailers or trucks with a gross vehicle weight rating of eight tons or greater;
3. (For all other home based businesses, the minimum lot area shall not be less than two acres.

### **C. Structure Requirements.**

1. A home based business may be conducted within the dwelling or within an accessory building meeting the requirements of this Ordinance, or both. If an accessory building is constructed or expanded to accommodate a home based business, it shall be constructed in a manner and style that is typical for accessory structures on single family lots.

2. Not more than twenty five percent of the gross floor area of the dwelling may be utilized by the home based business.
3. Buildings that must meet special building code requirements, such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems (except for the containment of small quantities of fuel, motor oil, lubricants and anti-freeze), and other similar requirements shall not be permitted.

**D. Access.**

1. A home based business that involves the use of heavy equipment or trailers of any weight, or trucks over eight tons gross vehicle weight, shall have frontage on and direct access to a paved road.
2. A proposed home based business that is accessed from a private street shall prove that access to the street by heavy equipment or trucks has been approved by the private street association, or other entity or owners who are responsible for ownership and maintenance of the private street.

**E. Performance Standards.**

1. Equipment or processes that create excessive noise, vibration, glare, fumes or odors, or electrical interference are prohibited.
2. The traffic generated by the home-based business shall not be of a volume or occur at a time that would cause adverse impacts on the surrounding neighborhood, as determined by the zoning administrator.
3. Outdoor storage of goods, parts, supplies or machinery related to the home based business is not permitted.
4. All motorized vehicles and equipment associated with the home based business shall be stored within a building. However, vehicles that do not exceed eight feet in height may be stored at the rear of a building, but they shall not be visible from the street and must be screened from neighboring properties with a solid six foot tall fence or wall, or a landscaping screen with a height at installation of at least six feet.
5. Only two persons who are not residents of the dwelling may be employed at the home based business. This does not preclude additional employees who may be employed by the home-based business, but who work elsewhere.
6. The home based business shall provide one off-street parking space for each employee not residing on the premises, in addition to the parking requirement for the dwelling. If patrons are allowed to access the business, two parking spaces shall be provided for each 300 square feet of usable floor area dedicated to the home based business.
7. The Planning Commission may approve additional conditions limiting the hours of operation, screening and other requirements to minimize potential impacts on adjacent properties, and that are consistent with the intent of this Ordinance and protect the public health, safety and welfare.

**Section 8.21 Hotels and Motels**

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- A. All site access shall be directly from a paved street.
- B. The front 25 feet of a lot shall be landscaped and not used for off-street parking.

- C. A guest unit shall be at least 250 square feet.
- D. Guests shall not establish a permanent residence at a lodging facility and the period of occupancy shall not exceed eight weeks.

## **Section 8.22 Migrant Housing**

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Seasonal dwellings for migrant farm workers and migrant employees of permitted food processing facilities may be permitted in the R-A District, subject to all of the following conditions and requirements:

- A. Seasonal dwellings shall be located on the same property as the principal use.
- B. The property shall be at least 10 acres.
- C. Seasonal dwellings shall only be occupied from April 15th to November 15th and shall be secured during the rest of the year to prevent entry by any person but the owner.
- D. The resident of a seasonal dwelling must be directly employed by the owner of the dwelling.
- E. State of Michigan rules, regulations and standards governing the licensing and operation of migrant housing shall apply to any dwelling used to house one or more migrant workers; notwithstanding that the state act applies to five or more migrant workers.
- F. Seasonal dwellings shall be located at least 300 feet from a public right-of-way and at least 100 feet from any other property line.
- G. A building containing a seasonal dwelling shall not exceed one story, nor contain more than six dwelling units. The minimum distance between a building containing a seasonal dwelling and another building shall be 30 feet. A building located within 30 feet of a seasonal dwelling shall be exclusively used by the occupants of the seasonal dwelling.
- H. A seasonal dwelling shall be at least 30 feet from a driveway or any road.
- I. Another building containing a seasonal dwelling shall not be located between the front wall of a building with a seasonal dwelling and the driveway or private road that serves it.
- J. Construction shall conform to the State Building Code and any other ordinance, which may require greater standards than state and/or federal regulations.
- K. Special conditions of approval may be necessary to insure desirable living conditions for migrant workers and to protect the value and desirability of adjacent properties.
- L. An applicant must comply with an approved plan, all conditions and requirements of this Ordinance and must further agree to the following:
  - 1. The premises and all seasonal dwellings shall be available for inspection by the Township building official.
  - 2. All premises and structures shall be regularly maintained.
  - 3. Any deficiencies that arise shall be corrected by the owner within 15 days notification by a Township, county, state or federal agent.
  - 4. If a seasonal dwelling is not occupied by a migrant worker during two consecutive seasons it shall be removed by the owner within six months following the end of the second season.
- M. **Permits.** Once an application for migrant housing has been approved, the Planning Commission shall authorize the Township building official to issue a building permit and a temporary occupancy permit for the specified seasonal period. A temporary occupancy permit shall be valid for only one

year and shall state any special conditions of approval.

- N. **Permit renewal.** A new migrant housing application must be filed and approved each year. A temporary occupancy permit shall not be renewed unless all of the above conditions, as well as any new conditions or regulations that result from amendments to Township, county, state or federal laws, have been met. The Planning Commission may deny a renewal application if, during the previous year, the temporary occupancy permit was revoked, there were frequent violations or if violations were not rectified or were consistently delayed. To correct any adverse effects, which may have arisen during the previous year, the Planning Commission may impose additional requirements, beyond those originally imposed, to renew a temporary occupancy permit.
- O. **Inspections.** The building official may thoroughly inspect the interior and exterior of all migrant housing as follows:
1. Once construction has been completed and prior to issuing a temporary occupancy permit.
  2. Once an application to renew a temporary occupancy permit has been made, a report shall also be made to the Planning Commission.
  3. Annually, between March 1st and April 14th.
  4. When a complaint has been filed for an alleged violation.
- P. **Revoking a permit.** Following inspection, if the building official finds that any of the above conditions, regulations or special conditions have been violated, the migrant housing owner and the Planning Commission shall be notified of the violation and that the temporary occupancy permit shall be revoked within 15 days of notification. If the violation is not resolved within 15 days, the building official shall revoke the permit. All migrant housing shall be vacated within 15 days of the date of revocation.

### Section 8.23 Junkyards and Salvage Centers

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- A. **Location requirements.** All site access shall be directly from a paved street. Access to an unpaved or county local road may be allowed if the Planning Commission finds that it will result in minimizing impacts to other properties.
- B. **Site requirements.** A site shall be at least five acres.
- C. **Setbacks.** When abutting a residential district a landscaped and fenced buffer that is least 200 feet wide shall be provided between an outdoor storage or work area and the adjoining district.
- D. **Buffering requirements.**
1. The front yard shall be landscaped consistent with the provisions of *Section 12.1*.
  2. A solid fence, wall, or landscaped berm, at least eight feet tall, shall surround the site, except for access drives, screening it from adjacent properties.
- E. **Performance standards.**
1. On-site delivery and loading and parking areas shall be designed so vehicles do not queue on perimeter streets while waiting to enter.
  2. All outdoor activities and material storage shall be within the fully enclosed area. Except for moveable equipment used at the facility, stored materials shall not exceed the height of the fence, wall or berm. Equipment, vehicles and materials shall not be used or stored outside the enclosed area.

3. All fences and perimeter walls shall be well-constructed using traditional construction materials and shall be painted or have a permanent finish.
4. The landscaping and fencing plan shall be reviewed by the Planning Commission and shall be designed to sufficiently buffer any adjacent uses.
5. Open burning shall not occur and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
6. All roads, driveways, parking lots and staging areas shall be paved, watered or chemically treated to limit wind-borne dust on adjoining properties and streets.
7. A facility that sells used vehicle parts or tows non-operational vehicles shall be licensed by the Michigan Secretary of State. Prior to the state issuing a license, the zoning administrator and the Kent County Sheriff shall certify that the facility is in a properly zoned area and that the operators are not previously convicted felons.
8. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources and Environment.

#### **Section 8.24 Kennels, Commercial**

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- A. Runs, exercise areas and accessory buildings where animals are kept, shall be at least 100 feet from any residential district or property occupied by a dwelling.
- B. A kennel shall be operated in conformance with all applicable County, State and Federal regulations.
- C. The main kennel building used to house animals shall be sound insulated to minimize animal noise.
- D. Habitual barking and noise, which creates a nuisance for adjacent land uses or residents is prohibited.
- E. Outdoor exercise yards, runs or pens shall not be used between 10:00 p.m. and 7:00 a.m.
- F. Animals shall be confined and shall not freely roam the property, except during supervised training.
- G. Runs and/or exercise areas and buildings where the animals are kept shall only be located in a rear yard or side yard.
- H. A kennel area shall be appropriately screened from view, as determined by the Planning Commission.
- I. Outdoor runs and exercise areas shall be enclosed by fences or walls to keep animals secure.
- J. All animals must be licensed and well cared for.
- K. Outdoor runs shall be designed in a manner so that they may be cleaned by using high-pressure water.
- L. If a sewer connection is not required, a septic disposal system shall be approved by the Kent County Health Department.
- M. The premises shall be kept clean and sanitary to prevent flies, the spread of disease or offensive odors.
- N. Dust and drainage from the facility shall not cause a nuisance or hazard to adjoining properties or uses.



## **Section 8.25 Mini-warehouses/Self-storage Facilities**

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### **A. General Requirements for Applicable Zone Districts.**

1. The minimum separation between self-storage buildings shall be 24 feet.
2. Internal drive aisles shall be at least 24 feet wide and shall be clearly marked to indicate the directions of traffic flow.
3. Permanent and long-term parking is prohibited within the 24-foot-wide building separation area and the 24-foot-wide internal drive aisles.
4. Site access shall be directly from a paved street.
5. Only storage uses are permitted, except for sales of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, or other similar items.
6. Auctions (except those authorized by Kent County for abandoned or seized assets), sales and individual businesses of any other type are prohibited.
7. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials is prohibited.

### **B. D-1 District Requirements.**

1. Building height and building floor areas shall comply with the lot, yard and building requirements for the D-1 District.
2. Except for recreational vehicles, motor homes and travel trailers, which may be stored outdoors, all other items shall be stored only in an enclosed building.
3. Outdoor storage areas shall be paved and completely screened from view from all adjacent residential uses.
4. A caretaker or resident manager dwelling is permitted as an accessory use.

### **C. B-2 District Requirements.**

1. Building height.
  - a. Storage buildings shall not exceed one story and a height of 14 feet.
  - b. Office components, whether attached or detached, shall not exceed a height of 25 feet.
  - c. A caretaker or resident manager dwelling shall not exceed two stories and a height of 25 feet.
2. An individual storage building shall not exceed 5,000 square feet.
3. Minimum lot size shall be two (2) acres and maximum lot size shall be five (5) acres.
4. Outdoor storage is prohibited.
5. Buildings are subject to 50-foot setbacks when adjacent to agricultural or residential zoned property.
6. Type 1 buffers, as outlined in Table 12.1a, are required in any yard adjacent to agricultural or residentially zoned property.

7. Parking and drive aisles are prohibited within required setbacks when adjacent to agricultural or residentially zoned property. Parking within setback areas adjacent to non-residential districts is subject to all other applicable requirements in this ordinance.
8. Fences within front yards and any side yards adjacent to agricultural or residentially zoned property shall be wrought-iron or a similar decorative type. Chain-link, or similar style fences, are prohibited in these areas. When a buffer is required, fences shall be placed to the interior of the required buffer area.
9. Sites shall include an office with a storefront at the front of the property.
  - a. The storefront shall include front-facing windows and entryways and other architectural features common to the area, such as overhanging porches or awnings.
  - b. The front building line of the storefront shall be at least 10 feet closer to the front lot line than all other storage buildings or units within the same building.
  - c. Only the sale of incidental supplies and similar materials related to the self-storage business shall be allowed from the office area.
  - d. If located adjacent to agricultural or residentially zoned property, the front office building, or office portion of the building, shall reflect a residential character in architectural design.
10. Storage building design and materials shall be compatible with the existing and intended character of the area.
11. Storage-unit doors shall not face a public street right-of way.
12. No commercial, wholesale, retail, industrial or other business use shall be operated from individual storage units.

## **Section 8.26            Removal or Modification of Natural Resources**

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The removal or extraction of sand, gravel, soil, rock, minerals and similar resources, or the reshaping, enlarging, reducing or damming of a stream, lake, pond or other water body is only permitted when done in conjunction with preparing a site for a use that is allowed in the district in which it is located. Activities associated with changing, moving or extracting natural resources shall not be permitted unless the following provisions have been met:

- A. **Exceptions.** The provisions of this section do not apply to the following:
  1. The removal or extraction of natural resources when each of the following conditions exist:
    - a. occurs more than 500 feet from a right-of-way or property line;
    - b. the removal area does not occupy more than two acres;
    - c. on average, the activity does not remove more than five yards of material per day; and
    - d. site grading does not cause a depression that can fill with water, nor does it create a pond or lake, except in association with a farm.
  2. The control and regulation of oil or gas.
  3. A pond less than one acre.
  4. Removal or delivery of sand, gravel or soil, when incidental to, or necessary to construct certain developments, as follows:
    - a. A use constructed in accordance with an approved site development plan.

- b. A plat (subject to any topsoil removal restrictions of the Byron Township Land Subdivision and Utility Extension Ordinance).
  - c. A planned unit development.
  - d. A special land use that does not involve the removal of natural resources.
  - e. For a single use building, all excess material must be removed or incorporated into a site before a Certificate of Occupancy can be issued; and for a multi-use development, no more than 70 percent of the project can be granted a Certificate of Occupancy prior to removal or incorporation of all excess material.
- B. Staff review of exceptions.** For items (1) and (3) above, an applicant shall submit a sufficiently detailed sketch grading plan to the zoning administrator. Based on the following standards, the zoning administrator shall review the plan to determine if the proposed activity qualifies as an exception. Review by the Township under this section does not relieve an applicant from complying with the requirements of any other governmental agencies that may be involved.
1. The area to be excavated is far enough from adjacent properties that any significant impacts can be minimized.
  2. Any excavated material to remain on-site will not block or change existing drainage patterns or cause erosion.
  3. All excavated material to be removed from a site is to be removed within four months of a project commencing.
  4. Temporarily stored material does not create an unreasonable nuisance for neighboring properties.
  5. All disturbed areas are to be replanted to prevent erosion and unsightly conditions.
  6. Pond side slopes do not exceed 5:1 (horizontal to vertical) for a horizontal distance of fifteen feet, measured from the mean shoreline elevation.
- C. Required Information.** A permit shall not be issued to remove or modify natural resources until special land use approval has been granted by the Planning Commission. In addition to the items required under *Section 9.3*, an application shall also include:
1. A legal description of all areas proposed for the use.
  2. A plan for mineral removal, prepared and sealed by a registered civil engineer, including, at a minimum, the following information:
    - a. the extent of the area on which mineral removal operations and activities will take place;
    - b. the location and width of all easements and rights-of-way;
    - c. the location and use of all structures;
    - d. the location of all potentially affected water courses and flood control channels;
    - e. existing topography at not less than five foot contour intervals;
    - f. typical cross sections showing the extent of overburden, natural resources, mineral material and water table elevations;
    - g. mineral processing and storage areas;
    - h. proposed security fences, gates, parking areas and signs;

- i. site access roads; including on-site drives and vehicle/equipment storage areas;
  - j. measures to limit dust generated by mineral removal activities and vehicles;
  - k. access routes between the extraction site and the nearest County primary street; and
  - l. ponds and water features.
3. A written narrative explaining proposed mineral extraction operations and activities; including the date of commencement, proposed hours and days of operation, estimates by type and quantity of the mineral materials to be removed, a description of the methods used to extract and process materials, proposed equipment and their noise rating and a summary of the procedures and practices that will be used to ensure compliance with the conditions of this subsection.
  4. A site reclamation plan that includes the following:
    - a. A written narrative describing site reclamation procedures and end-use(s), including phasing;
    - b. A site plan that shows final topography of reclaimed areas at a contour interval not greater than five feet; water courses, ponds or lakes, if any; landscaping and all features associated with an end-use(s).
    - c. The proposed methods to ensure that the end-use(s) will comply with all applicable requirements of this Ordinance.
  5. The Planning Commission may require an environmental impact statement, engineering data or other additional information necessary to address the consequences of mineral extraction on topography, drainage, water quality, floodplains and other features.

**D. Standards of review.**

1. A site rehabilitation plan shall be reviewed by the Planning Commission and must comply with all of the following:
  - a. Finished grading shall harmonize with and match existing topography and provide positive drainage.
  - b. Topsoil shall be replaced to a depth not less than six inches, except where otherwise suggested by an end-use.
  - c. If site reclamation is phased, topsoil shall be replaced, graded and stabilized before extraction operations or activities commence in another area.
  - d. Slopes shall be graded and stabilized to accommodate the end-use and shall not exceed 3:1 (horizontal to vertical) slopes.
  - e. A reclaimed site shall be appropriately landscaped to prevent erosion, screen objectionable views and enhance its character.
  - f. A lake shall only be created or enlarged when:
    - (1) An applicant can demonstrate, based on geo-technical and engineering analysis, that the water body will flush and not become polluted or stagnant;
    - (2) A plan for future lake and shoreline use has been submitted and approved by the State of Michigan and the Kent County Drain Commissioner.

- (3) The alteration, straightening, damming, widening or reduction of a water body has been approved by the State of Michigan and the Kent County Drain Commissioner.
2. Machinery or equipment shall not be erected or maintained within 100 feet of a property line and excavation shall not occur within 50 feet of a street right-of-way or property line. Where an excavation site is within 200 feet of an agricultural and residential zoning district, the Planning Commission may require greater setbacks for the limits of excavation and for locating, storing or parking equipment and machinery.
  3. To minimize wear on public streets and to prevent hazards and damage to properties, the Planning Commission shall approve an off-site truck routing plan. To minimize dust, mud and debris from being carried onto public streets, all entrance drives shall be paved for at least 200 feet into a site; all internal drives shall be treated to minimize dust. The operator shall be responsible for cleaning any debris that has been tracked onto a public street and if necessary, any financial sureties required of the applicant may be applied by the Township to cover cleanup costs.
  4. Appropriate measures shall be taken to minimize noise, dust and flying gravel. These may include limiting the practice of stockpiling excavated material.
  5. Any stored material and excavation pits shall not constitute a danger to children or others who may enter an excavation or material storage area. All stored material shall be graded to prevent slumping and slope failure. The Planning Commission may require additional methods to protect against potential injury, such as added security fencing.
  6. The Planning Commission may include conditions associated with any approvals, as may be necessary to ensure compliance with the terms of this subsection. Conditions of approval may address items such as: scheduling; weed, erosion and sedimentation control; fences and screening; groundwater monitoring; preservation of trees and other vegetation; and fuel loading and storage.
  7. An applicant shall submit a performance bond in accordance with the requirements of this Ordinance, naming Byron Township as the insured party and conditioned upon the timely and faithful performance by the applicant of all terms and conditions of the permit. The bond may include other relevant terms and shall be for an amount determined by the Planning Commission to be reasonably necessary to ensure compliance with all terms and conditions of this Subsection and the permit.
  8. The performance bond shall not be refunded, reduced or transferred until all of the following have been completed to the Township's satisfaction: resource removal operations and activities; land reclamation or restoration; and all other matters required of the applicant under the terms of the permit.
  9. The timely and faithful compliance with the provisions of the performance bond shall be a condition of resource removal. If the operator has violated any of the terms of the performance bond, or if it has been revoked, expired or has not been renewed, the Planning Commission does not have to renew the permit, even when the applicant has otherwise complied with all other terms and provisions of the current one.
  10. All structures, stored material and equipment shall be removed from the property and all land shall be graded to final elevations and replanted and maintained to avoid erosion within six months of terminating the extraction use.

11. The Planning Commission shall examine the proposed plans in relation to the Township's Community Master Plan, the effect of the use or change upon the area involved and the relationships of planned end-uses and future streets, lots, grades and any water bodies.

- E. **Determination by Planning Commission.** Following the public hearing, the Planning Commission shall make its decision in accordance with the provisions of this section and *Chapter 9* of this Ordinance. In addition, the Planning Commission shall find that the proposed change or resource removal will prepare the site for a permitted end use that will be implemented in a reasonable amount of time.
- F. **Authorization.** Upon approval of the application, the Planning Commission shall inform the Township Board of its action, the bond amount and any special conditions of approval. Upon receipt of the cash bond or irrevocable letter of credit, or in its discretion, upon approval of a corporate surety bond by the Township Board, the Board shall direct the building official to issue necessary permits for the use and a temporary occupancy permit for up to one year.
- G. **Permit renewal.** A temporary occupancy permit may be renewed for up to three years at a time, or for the duration of an accepted surety bond or irrevocable letter of credit, whichever is less. Such a permit may only be renewed upon a finding by the Planning Commission that all conditions and plans are being complied with and a nuisance has not been created as a result of prior operations. Where any new area is being considered, or where any area not previously included on a site plan (See *Section 8.26.C*) is to be included, the procedures for a new application shall be followed.

## **Section 8.27 Outdoor Display, Sales or Storage (Excluding Vehicle Sales)**

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### **A. Site requirements.**

- 1. The minimum frontage shall be 200 feet.
- 2. Loading activities shall not be permitted within 75 feet of a lot line abutting a residential district or use.
- 3. All buildings shall be at least 50 feet from a lot line.
- 4. All site access shall be directly from a paved street, or from an paved shared access drive.

### **B. Buffering requirements.**

- 1. Outside storage and loading and dock areas shall be fenced and screened, pursuant to the requirements of *Section 12.1*.
- 2. If the site is immediately adjacent to a residential district it shall comply with the requirements of *Section 12.1.0*.
- 3. Views of storage yards from public streets shall be completely screened.

### **C. Performance standards.**

- 1. The site shall be kept neat and orderly.
- 2. Storage or display of goods and materials shall not occur within a setback area.
- 3. If a public address system is employed, it shall not be audible from an abutting lot zoned or used for residential purposes.
- 4. All flammable liquids, solvents, cleaners and other hazardous substances capable of contaminating groundwater shall be stored within a building and secondary containment measures shall be employed to prevent ground contact of any spilled materials.

5. Soil, fertilizer or similar loosely packaged materials shall be sufficiently contained to prevent them from spilling onto or contaminating adjacent properties, water bodies, wetlands or drainage course.
- D. All areas to be accessed by vehicles shall be paved and bumper-guards shall be installed where necessary.

### **Section 8.28            Places of Worship**

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- A. All site access shall be from a paved street.
- B. A site shall be at least three acres, unless located in a shopping or business center.
- C. Within a residential district, a building shall be located at least 100 feet from a right-of-way or property line. When located in a non-residential district, the setback requirements of the zoning district shall apply.
- D. A building shall not exceed the height requirements of the district in which it is located, except that building height may be increased by one foot for each additional one foot of setback, up to a maximum 45 feet, excluding a spire.
- E. All yards and open spaces shall be landscaped.
- F. Parking lots shall be screened from adjacent residential areas pursuant to *Section 12.1*.
- G. Any other use requiring a special land use permit, including a day care center and private school, shall require a separate special land use application.

### **Section 8.29            Public Buildings and Utility Facilities**

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- A. Public buildings and utility facilities include administrative offices, fire and police stations, libraries, museums, recreational centers, storage areas for public equipment and buildings serving public utility companies, electrical substations, gas regulator stations, and utility maintenance depots,, but not including essential services.
- B. **Site requirements.**
  1. A building shall be at least 50 feet from a lot or right-of-way line.
  2. Not more than 30 percent of a lot shall be covered by buildings.
  3. All lot area and height requirements of the district in which the use is located shall be met.
- C. **Buffering requirements.**
  1. All outdoor mechanical, electrical or HVAC equipment shall be screened from adjacent residential uses, either by a five foot tall solid fence or wall, or suitable landscaping.
  2. All buildings shall be landscaped and maintained in accordance with the requirements of *Section 12.1*.
- D. **Performance standards.**
  1. All buildings shall fit the architectural character of the surrounding area and shall be similar in design, materials and appearance to other buildings located on the same development site.
  2. Outdoor storage areas shall be at least 50 feet from residentially zoned property.

3. All off-street parking and passenger loading areas shall be at least 25 feet from any lot line that is shared with a residential district or use.
4. Any wind-blown debris or litter emanating from a site shall be regularly monitored and cleaned.
5. Sports fields shall be at least 100 feet from a lot line and 200 feet from a dwelling unit.

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**Section 8.30 Recreation Facilities and Health Clubs, Indoor**

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- A. A site shall be at least one acre.
- B. Where a facility is planned to serve areas beyond a recorded subdivision or a planned unit development, at least one property line shall abut and have direct access only from a county primary road, as classified in the township's Community Master Plan.
- C. Along lot lines that abut a residential district: the abutting yard shall be at least 80 feet. Along lot lines that abut a non-residential district: the respective yards shall be at least 10 feet or the requirement of the zoning district, whichever is greater.
- D. Where abutting a residential district, parking or structures are not permitted in a required front, side and rear yards, except for entrance drives and walls used to screen the use.
- E. Outdoor loudspeakers/paging systems are prohibited where adjacent to residential use.
- F. For an outdoor swimming pool constructed per this section, a five foot tall fence and controlled entry gate shall be required.

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**Section 8.31 Recreation Facilities, Outdoor**

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- A. All site access shall be directly from a paved street.
- B. A site shall be at least three acres.
- C. All buildings and spectator seating areas shall be at least 100 feet from a lot line.
- D. Front, side and rear yards shall be at least 80 feet. The first 50 feet of any yard shall not be used for parking and shall be landscaped.
- E. For a parking area adjacent to property zoned or used for residential purposes, a five foot tall wall, fence or landscaped area shall be provided between the parking lot and the residential land.
- F. The applicant shall provide evidence that all relevant state, county and local permits have been secured or are in the process of being secured.
- G. Adequate off-street parking and passenger loading areas shall be provided.
- H. Adequate vehicle stacking areas shall be provided.
- I. Any facility with a participant capacity greater than 500 people shall provide letters of review from the County Sheriff and Kent County Road Commission.
- J. Any wind-blown debris or litter emanating from a site shall be regularly monitored and cleaned.
- K. A use that is accessory to a recreational facility shall not pre-date the completion and operation of the principal use. When the principal use ceases to operate, the accessory use shall also immediately cease.
- L. Accessory commercial uses shall be limited to those necessary to serve only the seasonal patrons of the facility.



- M. Not more than 65 percent of a site shall be covered by recreational uses, playfields, courts and similar activity areas.
- N. Central loudspeakers/paging systems are prohibited where adjacent to residentially zoned or used properties.
- O. A temporary sanitary facility or trash receptacle shall not be located within 200 feet of an existing dwelling unit.
- P. All sanitary facilities shall be designed and constructed in strict conformance with Kent County Health Department regulations.
- Q. Adequate trash receptacles shall be provided throughout the site.
- R. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the potential for it to negatively affect adjoining properties.

### **Section 8.32 Restaurants with Drive Through Window**

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- A. The property shall not be within 500 feet of the property line of an elementary, junior or senior high school.
- B. All site access shall be from a county primary road, as classified by the township's Community Master Plan.
- C. The width of a driveway, measured at the property line, shall be at least 24 feet, but not more than 30 feet.
- D. A restaurant located within or adjacent to an integrated commercial development or a cluster of commercial enterprises shall share access with all other business establishments.
- E. Site access and circulation shall be designed to minimize traffic conflicts, congestion and disruption and enhance traffic safety on abutting public and private streets and drives.
- F. Loudspeakers shall not face adjoining residentially zoned or used properties and shall be modulated so any generated sound is not audible beyond property boundaries..
- G. All landscaped areas shall be separated from parking areas and driveways by a raised six inch concrete curb or other equivalent barrier.
- H. A six inch concrete curb shall be maintained along or parallel to all property lines, except for access drives, to prevent vehicles from encroaching onto or over a right-of-way, an adjoining property or to prevent damage to a building. The Planning Commission may modify or waive this requirement based on recognizable and unusual site characteristics, or where landscaping or other natural or manmade features accomplishes the same purpose.
- I. All outdoor dumpsters shall be enclosed by a six foot wall and any waste shall not be stacked higher than the wall.
- J. Adequate and regular measures to address wind-blown trash and litter shall be employed, including within parking lots, onto adjacent rights-of-way and in neighboring property.
- K. All service areas, including loading and unloading areas and trash enclosures, shall be at least 75 feet from a residential property.

### **Section 8.33            Roadside Market Stands**

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- A. Roadside market stands shall sell only produce grown on the premises, unless the sale of off-premises food products is authorized by the Planning Commission as a special land use under *Chapter 9*.
- B. A roadside market stand shall be located and have sufficient off-street parking so it does not create a traffic hazard or other potentially harmful condition.
- C. Necessary driveway permits shall be obtained from the Kent County Road Commission.
- D. A roadside market stand that has not been used or operated for two consecutive growing seasons shall be promptly removed at the end of the second growing season.

### **Section 8.34            Sanitary Landfills**

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Sanitary landfills, where waste, garbage, materials or similar disposed matter is discarded, shall only be permitted in a manner that ultimately prepares the land for a primary intended use. A sanitary landfill shall conform with state and county regulations and meet the provisions of *Section 8.25, Removal of Natural Resource*, and in addition, meet the following:

- A. Open public or private dumps are prohibited.
- B. The sanitary landfill must be continuously licensed by the State of Michigan or its agencies as a sanitary landfill.
- C. In the event that any material, substance or compound in a liquid, semi-liquid or jelled state declared to be hazardous by any state or federal agency, is to be placed within a landfill, then the requirements of the State of Michigan relating to disposal of Type I hazardous waste shall apply and are incorporated herein by reference.
- D. A licensed engineer must attest that the construction of the landfill meets all the requirements of this Ordinance; all Kent County ordinances, rules and regulations; and all statutes, rules and regulations of the State of Michigan.
- E. A cash bond shall be required of all landfill operators or owners, equal to 10 percent of the estimated cost of constructing the landfill. The bond shall be defaulted to the Township upon the failure of the operator or owner to comply with any of the regulations of this Ordinance. The bond shall be held until ten years after the operation of the landfill ceases and the proceeds from a default shall be used as follows:
  - 1. To bring the operation into compliance with all regulations.
  - 2. To compensate adjacent landowners who may be injured by the failure to comply.
  - 3. To alleviate the conditions caused by the failure to comply that are detrimental to adjacent landowners.
  - 4. To defray any administrative costs caused by the failure to comply with these regulations.
  - 5. To pay experts hired by the Township to address any issue resulting from a failure to comply with these regulations.
  - 6. To pay the costs of enforcing the Zoning Ordinance.

## Section 8.35 Solar Energy Collectors

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Building-mounted and ground-mounted solar energy collectors shall comply with the following:

- A. **Building-mounted solar energy collectors.** A building-mounted solar energy collector shall be permitted as an accessory use in all zone districts, subject to the following:
1. A roof-mounted solar energy collector:
    - a. Shall not project more than five feet above the peak of the roof, but in any case shall not exceed the maximum building height for the zone district in which it is located.
    - b. Shall not project beyond the eave of the roof.
  2. A solar energy collector that is roof-mounted, wall-mounted or otherwise attached to a building or structure shall be permanently and safely attached. A professional engineer or other qualified person shall certify compliance as a condition of approval by the Township building official.
  3. A solar energy collector that is wall-mounted shall not exceed the permitted height of the building to which it is attached.
  4. Solar energy collectors shall not be mounted on the front wall of a building.
  5. The color of a roof- or wall-mounted solar energy collector shall be neutral and shall have a substantially non-reflective surface.
  6. Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township building official prior to installation. The building official may inspect the completed installation to verify compliance.
  7. Solar energy collectors, their installation and use shall comply with all related construction and electrical codes.
- B. **Ground-mounted solar energy collector.**
1. Ground-mounted solar energy collectors shall only be permitted on lots and parcels of one acre or greater in size.
  2. A ground-mounted solar energy collector shall be located in a rear yard and is subject to the setbacks applicable to principal buildings.
  3. Solar energy collectors shall not exceed 16 feet in height, measured from the ground at the equipment base to the peak.
  4. The total area of ground-mounted solar energy collectors shall be included in the calculation of maximum permitted lot coverage.
  5. Solar energy collectors shall be permanently and safely attached to the ground. A professional engineer or other qualified person shall certify compliance as part of the special land use application.
  6. Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township building official prior to installation. The special land use, if granted, may be subject to inspection by the building official to verify compliance.
  7. The color of a ground-mounted solar energy collector shall be neutral and shall have a substantially non-reflective surface.

8. Solar energy collectors, their installation and use shall comply with all related construction and electrical codes.
9. The special land use may include terms and conditions in addition to those stated in this subsection.

## **Section 8.36            Vehicle Service Stations**

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### **A. Location and access requirements.**

1. An underground fuel storage tank shall be at least 300 feet from a residential well, at least 800 feet from a non-community public water well, e.g., a well serving a business and at least 2,000 feet from a public water well.
2. The minimum lot width and street frontage shall be 200 feet.
3. The site shall meet the minimum frontage requirements for the zoning district on a county primary road, as classified in the township's Community Master Plan, and have access to that road via a single driveway or from a driveway shared with one or more adjoining properties.
4. Not more than one driveway per road and no more than two driveways per lot shall be permitted.
5. The site shall be at least 200 feet, measured between the closest lot lines, from a place of public assembly, including a hospital, school, church or other institution.

### **B. Site and performance requirements.**

1. A principal building of at least 400 square feet is required per lot.
2. In addition to the minimum required for the zoning district, a vehicle service station shall provide 500 square feet of lot area for each fuel pump over four.
3. All fueling pumps shall be least 30 feet from a lot line or right-of-way and shall be arranged to prevent queued or parked motor vehicles, waiting to be serviced, from encroaching upon a sidewalk, street, intersection or public right-of- way.
4. Repair work shall not be permitted, except for incidental services, such as the addition of motor oil, windshield/wiper fluid or transmission fluid.
5. All areas designated for vehicles shall be paved. Landscaped areas shall be separated from paved areas by a low barrier or 6 inch concrete curb.
6. When adjoining a residentially zoned property, a six foot solid wall or fence is required along the shared lot line. Walls and fences shall be protected by a curb or similar barrier to prevent damage.
7. All outside storage areas for trash, auto parts and similar items shall be located in the rear yard and enclosed by a six foot, solid fence or wall.
8. Above ground outdoor storage/dispensing tanks are not permitted.
9. A permanent, canopy that is open on all sides shall be located over all fuel pump islands. Minimum vertical clearance shall be 13 feet six inches. A canopy shall meet all setback requirements, but in no case shall it extend beyond a property line.
10. Accessory retail uses, when established in connection with the principal use on the same lot, shall comply with the following:

- a. Buildings shall be arranged so that drive-through windows and lanes are screened from adjoining residentially zoned land.
- b. Drive-through lanes that serve accessory uses shall be physically separated from drive lanes serving pump islands, site entrances and parking and service areas.
- c. Customer parking shall be arranged to avoid pedestrians from having to cross a drive-through lane or an off-street loading area.
- d. Loading areas shall be located in a rear or side yard.
- e. Drive-through lanes shall accommodate at least five stacked vehicles.
- f. Retail sales are limited to retail sales of goods and items commonly offered for sale in vehicle service stations, but such retail sales shall be only secondary and incidental to the principal use of the building and property as a vehicle service station.

### **Section 8.37 Vehicle Repair, Major**

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#### **A. Location Requirements.**

1. For a garage with any type of underground storage tank, the tank shall be at least 300 feet from a residential well, at least 800 feet from a non-community public water well, e.g., a well serving a business, and at least 2,000 feet from a public water well.
2. The site shall meet the minimum frontage requirements for the zoning district on a county primary road, as classified in the township's Community Master Plan, and have access to that road via a single driveway or from a driveway shared with one or more adjoining properties.
3. The site shall be at least 200 feet, measured between the closest lot lines, from a place of public assembly, including a hospital, school, church or other institution.

#### **B. Site Requirements.**

1. In addition to the minimum for the zoning district, for each repair bay over two, 1,000 square feet of additional lot area is required.
2. The minimum lot width and street frontage shall be 200 feet.
3. All vehicle service and parking areas and drives shall be paved and adequately drained.
4. Outdoor, above-ground storage/dispensing tanks are prohibited.
5. Where feasible, service bays shall not face adjacent streets and residential uses.

#### **C. Performance Standards.**

1. All equipment and operations shall be located entirely within a building.
2. Outdoor storage areas for trash, auto parts and similar items shall be in a rear yard and enclosed by a six foot sight-obscuring wall or fence.
3. An outdoor storage area shall not exceed the ground floor area of the principal building on the same lot, nor shall it be located within a required yard.
4. Stored items shall not be stacked above the height of a screen wall or fence. A disabled, wrecked or partially dismantled vehicle shall not be stored or parked outdoors for more than five days.

5. Inoperative vehicles and vehicles without current license plates and registration, shall not be stored for more than 30 days pending transfer to a junkyard. Such vehicles shall be stored within an enclosed outside storage area.
6. All floor drains shall be connected to a public sanitary sewer system or connected to an approved holding tank.

### **Section 8.38            Vehicle Repair, Minor**

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- A. For a garage with any type of underground storage tank, the tank shall be at least 300 feet from a residential well, at least 800 feet from a non-community public water well, e.g., a well serving a business, and at least 2,000 feet from a public water well.
- B. The site shall meet the minimum frontage requirements for the zoning district on a county primary road, as classified in the township's Community Master Plan, and have access to that road via a single driveway or from a driveway shared with one or more adjoining properties.
- C. Outdoor, above-ground storage/dispensing tanks are prohibited.
- D. All parking areas and drives shall be paved and adequately drained.
- E. Where feasible, service bays shall not face adjacent streets and residential uses.
- F. All equipment and operations shall be located entirely within an enclosed building.
- G. A disabled vehicle shall not be stored or parked outdoors for more than five days.
- H. Inoperative vehicles and vehicles without current license plates and registration shall not be stored outdoors.
- I. All floor drains shall be connected to a public sanitary sewer system or connected to an approved holding tank.
- J. Minor vehicle repair as a home-based business
  1. Storage tanks of any type that are directly related to the repair of vehicle business are prohibited.
  2. Vehicle parking areas and drives may be gravel and shall be located per the requirements of *Section 3.9*.
  3. No more than three vehicles waiting to be serviced shall be parked on a residential lot at any one time. If stored outdoors, the vehicles shall be in a designated storage area, located in the rear yard and completely screened by a sight-obscuring six foot fence.
  4. All equipment and operations shall be located entirely within an enclosed building.
  5. A disabled vehicle shall not be stored or parked outdoors for more than five days.
  6. Inoperative vehicles and vehicles without current license plates and registration, shall not be stored outdoors.
  7. The Planning Commission may limit the hours of operation based on the location and size of the property and surrounding uses.
  8. All floor drains shall be connected to a public sanitary sewer system or connected to an approved holding tank.

### **Section 8.39 Vehicle and Trailer Sales**

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- A. The site shall meet the minimum frontage requirements for the zoning district on a county primary road, as classified in the township's Community Master Plan, and have access to that road via a single driveway or from a driveway shared with one or more adjoining properties.
- B. All vehicle and trailer sales areas shall be paved.
- C. Only minor vehicle or trailer repair or refinishing is allowed and only when conducted as an accessory use to the vehicle and trailer sales. Minor vehicle and trailer service and repair shall be conducted within a fully enclosed building. Damaged vehicles and/or vehicles waiting for minor repair shall either be contained within an outdoor storage area that is screened by a six foot tall solid wall or fence or within a building. Outdoor storage of materials is not permitted.

### **Section 8.40 Vehicle Wash Establishments**

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- A. The site shall meet the minimum frontage requirements for the zoning district on a county primary road, as classified in the township's Community Master Plan, and have access to that road via a single driveway or from a driveway shared with one or more adjoining properties.
- B. All washing activities must occur within a building.
- C. Vacuuming stations shall be at least 50 feet from an adjoining residential district.
- D. The entrances and exits of the building containing a wash facility and areas provided for outdoor drying of vehicles shall be arranged to prevent queued or parked motor vehicles from encroaching upon a sidewalk, street, intersection or public right-of-way. Direct access to the building shall not be from an adjoining street, but rather from within the property.
- E. At least two vehicle stacking spaces shall be provided for each self-serve wash stall, in addition to vehicle wash or vacuum areas.
- F. At least fifteen stacking spaces shall be provided for each automatic wash lane.
- G. All off-street parking areas and maneuvering lanes shall be drained to prevent water from flowing onto adjacent property or public rights-of-way.

### **Section 8.41 Veterinary Hospitals and Clinics**

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- A. An animal holding area shall be enclosed by a wall or fence at a height sufficient to contain animals on the premises.
- B. Kennels, pens, animal holding areas and/or stalls shall be at least 200 feet from a front property line and 50 feet from a side or rear line.
- C. All buildings and structures shall meet the setback and yard requirements of the district.

### **Section 8.42 Wind Energy Conversion Systems**

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This section establishes standards and procedures by which the installation and operation of On-site Service Wind Energy Conversion Systems shall be regulated in Byron Township.

#### **A. Definitions.**

1. Wind Energy Conversion System (WECS)
  - a. A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground, or a vertical axis, with a rotor that spins parallel to the ground. A WECS includes a surface area

(typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and

- b. 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
- c. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
- d. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
- e. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.

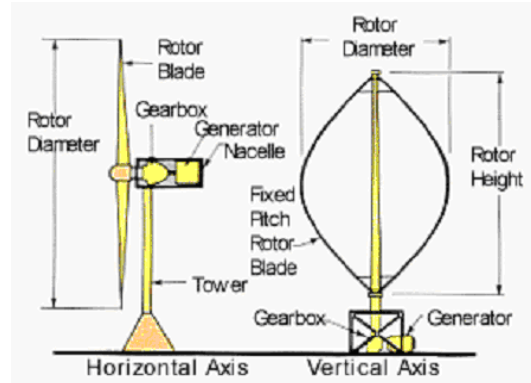


Figure 12-1: WECS diagram

2. WECS height. The distance measured between the ground at normal grade and the highest point of a WECS. For a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position. The height of a building mounted WECS shall be measured from the grade of the building upon which it is attached.
3. On-site Service WECS. A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.

**B. Allowed WECS.**

1. Only On-site Service WECS shall be allowed; a WECS with the primary purpose of providing power to the utility grid or any other use not on the same site shall be prohibited.
2. Except as may otherwise be required by this Ordinance, an On-site Service WECS shall be allowed as an accessory use in all zoning districts and, if permitted by the terms of the applicable PUD ordinance, subject to the requirements of this section.

**C. Review requirements.**

1. WECS up to 50 feet tall. A WECS, 50 feet tall or less, shall be reviewed according to *Chapter 11, Site Plan Review*; however, the application and site plan need only contain the elements listed in this section.
2. WECS taller than 50 feet. A WECS that is taller than 50 feet is considered a Special Use and is subject to the requirements of *Chapter 9*.
3. Application and Site Plan Requirements. All WECS applications and site plans shall include the following information:
  - a. Name of applicant, name of site plan preparer (if different), name of WECS manufacturer and name of WECS installer, with contact information;
  - b. A scaled drawing of the property, showing dimensions of all property lines and the area of the lot in square feet;
  - c. Location and setback of all structures on the site, including any overhead utility lines;



- d. Proposed location of the WECS equipment on the site or on the building;
- e. Setbacks of the WECS, in accordance with the setback requirements of this section, from property lines and (if ground mounted) from structures;
- f. A scaled elevation drawing of the WECS installation (including the building, if the WECS is building mounted) showing WECS height, rotor diameter and all other applicable elements to confirm conformance with the requirements of this section;
- g. Certification that the WECS system and mount meet all applicable standards.

**D. On-site Service WECS general requirements.**

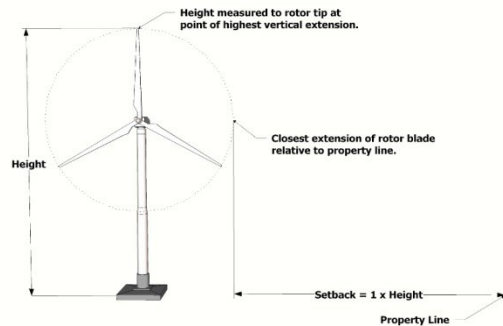
1. A property may have either a ground mounted or building mounted WECS, but not both.
2. A building mounted WECS shall be allowed on any lot, provided that all other requirements are met. The minimum lot area for a ground mounted WECS shall be 20,000 square feet.
3. The power rating of the WECS turbine shall not be greater than 25 kW.
4. The WECS shall provide energy only to the structures and uses on the same property upon which it is located and must be owned or leased by the owner of the same property. However, this does not prevent the distribution to the local utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
5. Sound attributed to the WECS in excess of 55 dB(A) shall not be discernible at the property line.
6. Signs shall not be attached on the WECS other than the name of the manufacturer, which may only be affixed to the base of the tower or to the nacelle. A sign shall not exceed three square feet in area.
7. The WECS shall not be illuminated.
8. The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
9. A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. Emergency shut-off information shall be posted on the tower in an easily viewable location, or for building mounted WECS, shall be in a location easily accessible and viewable.
10. A WECS shall employ an anti-climbing device or be designed to prevent climbing and other unauthorized access.
11. A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.
12. The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.
13. All WECS installations shall comply with small wind design and safety standards adopted by one of the following: the International Electro-technical Commission, the American National Standards Institute, or the Small Wind Certification Commission.

14. All WECS installations shall comply with applicable provisions of the National Electric Code and the Michigan Construction Code, as adopted by the State and the Township.
15. Abandonment. A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for 12 consecutive months.
16. Repair and maintenance. An existing and approved WECS may be repaired and maintained; however, a WECS may only be replaced with a new WECS upon approval of the zoning administrator, provided that the new WECS is of the same height, rotor diameter, setback, etc. as the WECS it replaces. A “new or replacement WECS” shall mean all of the WECS, excluding the tower or support structure.

**E. Ground-mounted On-site Service WECS.**

1. Not more than one ground mounted on-site service WECS is permitted per parcel or lot.
2. A ground mounted WECS shall not be located within a front yard.
3. The WECS shall be located on the property so it is set back from all property lines a distance equal to the WECS height. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line. No part of a single WECS (including guy wire anchors) shall be located within or above any required setback.

4. The WECS height shall be limited by available setbacks as required in paragraph E.3. above; however, a WECS shall not exceed 50 feet in height on property at least 18,000 square feet, but less than 50,000 square feet; or 75 feet on a property 50,000 square feet or greater. A WECS over 50 feet high is subject to special land use approval by the Planning Commission under Article XVIII, regardless of lot size.



*Figure 12-2: Ground Mounted WECS height and setback*

5. The minimum rotor blade tip clearance from grade shall be 20 feet.
6. The minimum rotor blade tip clearance from any structure or utility line shall be 20 feet.
7. The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed 50 feet.
8. The tower used to support a WECS shall be adequately anchored meeting applicable standards, as certified by an engineer.

**F. Building mounted On-site Service WECS.**

1. There may be more than one building mounted on-site service WECS on a single property; however, each individual WECS shall meet all of the requirements in this section, and each WECS shall be separated from any other WECS by no less than 10 feet, measured between the maximum extension of the rotors.

2. The WECS shall be mounted so that it is set back from adjoining property lines a distance equal to the combined height of the WECS and the height of the portion of the building on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).
  3. The WECS height shall be limited by available setbacks as required in paragraph E.3. above; however, a WECS shall not exceed the maximum permitted height for principal buildings in the district, plus 20 feet.
  4. The diameter of the rotor shall not exceed 20 feet.
  5. A building mounted WECS shall not be mounted to the vertical face of a gable end or dormer that is visible from the street. To the greatest degree possible, the WECS shall be mounted to the building in the least visible location.
  6. The mount and the structure used to support a building mounted WECS shall meet applicable standards, as certified by an engineer.
- G. **Discretionary conditions.** The Planning Commission may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of a WECS. These may include, but are not limited to the following:
1. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
  2. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
  3. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this section are met.
  4. Requiring a performance bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the special land use, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

### **Section 8.43      Wineries, Farm**

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- A. A farm winery, and as a small wine-maker as defined by the Michigan Liquor Control Commission, shall be licensed by the US Alcohol and Tobacco Tax and Trade Bureau; and the Michigan Liquor Control Commission, and shall be in compliance with the regulations of the Michigan Liquor Control Commission, the Michigan Department of Agriculture, and the Michigan Department of Natural Resources and Environment.
- B. The minimum lot area shall be 10 acres.
- C. A farm winery property shall have at least two acres planted with fruit and be maintained pursuant to generally accepted agricultural management practices.
- D. The total land area covered by buildings and structures used for wine processing, storage, tasting and sales shall not exceed two percent of the contiguous lot area.
- E. The above ground portion of a building shall not exceed 20,000 square feet.
- F. All farm winery buildings shall be at least 50 feet from a property line. If a building is open to the

public, it shall be at least 100 feet from a property line. To encourage the use of existing buildings, setback requirements may be reduced to comply with the requirements of the zoning district, subject to site plan review.

- G. All retail sales and tasting areas shall be clearly accessory to the production of wine. Indoor retail sales and tasting areas shall occupy no more than 3,500 square feet.
- H. Retail sales shall be limited to wine and wine related beverages produced on the farm and agriculturally related products as defined in this Ordinance. Retail sale of food items is limited to prepared and prepackaged goods. Food production is not, except for the sale of products made from produce grown on the farm.
- I. Production of wine and wine related beverages is limited to not more than 50,000 gallons per year.
- J. The provisions of *Section 4.58* of the Township Code of Ordinances, limiting the sale of alcoholic liquors, including wine, on Sunday and the provisions of Ordinance 520, amending the Township Code of Ordinances with respect to Small Wine Markers, among other provisions shall apply.

#### **Section 8.44            Wineries, Small**

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A small wine-making establishment includes: limited making and bottling of wine; retail sales of wine on a premises and by direct shipment to purchasers; and on-premises wine-tasting by customers, subject to all of the following requirements:

- A. The establishment shall be state-licensed as a small wine-maker under the terms of the Michigan Liquor Control Code and the U.S. Alcohol and Tobacco Tax and Trade Bureau.
- B. The establishment shall be subject to the approval of the Township Board under the terms of the Michigan Liquor Control Code and applicable provisions of Chapter IV, Alcoholic Liquors, of the Township Code of Ordinances and shall comply with the terms and conditions of such approvals.
- C. The building, site and other aspects of the establishment are subject to site plan review and approval by the Planning Commission (See *Chapter 11*) and further, by the Township Board under the standards for approval of an on-premises liquor license, as stated in Section 4-24(2) and (3) of the Township Code of Ordinances.
- D. Only wine and wine-related beverages shall be made, bottled, tasted or sold. Not more than ten percent of the wine offered for sale may be produced by a winery other than that of the licensee and owner of the establishment. All other wine shall be made and bottled on the premises or other location owned and operated by the licensee and owner of the small winery. All wine shall be sold or tasted on the premises, or shipped to customers from the premises.
- E. Making, bottling and tasting wine may be limited to a maximum annual amount, irrespective of the volume permitted by an approved small wine-maker state license. In determining the amount in gallons, the Planning Commission shall consider the likely or potential effects increased wine output may generate including, but not limited to:
  - 1. The resulting volume and frequency of customer vehicles.
  - 2. Available off-street parking.
  - 3. The frequency and impact of vehicles related to the unloading of wine-making ingredients and supplies and the delivery of bottled wine for shipment or for direct delivery to customers elsewhere.

4. Generally, whether the proposed annual volume of wine and the resulting effects will result in serious adverse impacts on property comprising the special land use, adjacent and nearby lands and the public streets.
- F. All activities related to making, bottling, selling, tasting and storage of wine shall take place within a completely enclosed building.
- G. The provisions of Chapter IV, Alcoholic Liquors, of the Township Code of Ordinances must be met.
- H. The sale and tasting of wine on the premises shall be required. The floor area of the premises devoted for such activities is subject to Planning Commission approval as part of site plan review.
- I. Customer restroom facilities shall be provided on the premises.
- J. Except for minor food items, typically associated with wine tasting and to the extent approved by the Township Board for an on-premises liquor license, a restaurant or other manner of serving of food to customers on the premises is not permitted.

#### **Section 8.45            Wireless Communication Facilities**

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- A. **Purpose.** This section establishes guidelines to appropriately site wireless communications towers and antennas. Its goals are to: (1) protect residential areas and land uses from the potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the number of towers in the community; (4) strongly encourage the joint use of new and existing tower sites; (5) encourage tower and antenna users to locate, to the extent possible, in areas where any adverse impacts to the community are minimized; (6) encourage tower and antenna users to configure them in a way that minimizes any adverse visual impacts through careful design, siting, screening and innovative camouflaging techniques; (7) enhance telecommunication services to the community so they are quick, effective and efficient; (8) consider the public health and safety of communication towers; and (9) avoid potential damage to adjacent properties from tower failure through engineering and carefully locating structures. In furthering these goals, Byron Township shall take into account the Township Master Plan, zoning map, existing land uses and environmentally sensitive areas when approving sites for towers and antennas.
- B. **Definitions.** As used in this section, the below terms shall be defined as follows:
  1. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal an antenna or tower.
  2. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure; used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
  3. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switched telephone network.
  4. "FAA" means the Federal Aviation Administration.
  5. "FCC" means the Federal Communications Commission.
  6. "Height" means the distance measured from the finished grade of the site adjacent to the tower or other structure, to the highest point of the antenna, tower or other structure, including the base pad.

7. "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this section, including permitted towers or antennas that have not yet been constructed, as long as approvals are current and have not expired.
8. "Tower" means any structure that is designed and constructed primarily to support one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes the structure and any support system of radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.

**C. Applicability.**

1. New towers and antennas. All new towers or antennas in Byron Township shall be subject to these regulations, except as provided in Subsections C.2 through C.4.inclusive.
2. Amateur radio station operators/receive only antennas. This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator, or is used exclusively for receive only antennas.
3. Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of Subsections D.6. and D.7.
4. AM array. An AM array, consisting of one or more tower units and a supporting ground system, which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

**D. General requirements.**

1. Principal or accessory use. Antennas and towers may be considered either a principal or an accessory use. A different use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on a lot.
2. Lot size. To determine whether the installation of a tower or antenna complies with zoning district regulations, including but not limited to setbacks, lot-coverage and other such requirements, the dimensions of the entire lot shall control, even though an antenna or tower may be located on a leased parcel or an easement.
3. Inventory of existing sites. An applicant shall provide the zoning administrator with an inventory of existing or approved towers, antennas or sites they control, located either in Byron Township, or within one mile of its borders. The information shall include the location, height and design of each tower. While the zoning administrator may share the information with other applicants or organizations seeking to locate antennas in Byron Township, the Township is not representing or warranting that the information is entirely accurate or suitable for telecommunications planning.
4. Aesthetics. Towers and antennas shall meet the following requirements:
  - a. Towers shall either have a galvanized steel finish, or subject to FAA requirements, be painted a neutral color.
  - b. The design of buildings and related support structures shall, to the extent possible, use materials, colors, textures, screening and landscaping to blend with either a natural setting

- or the character of surrounding development. While a chain link fence and landscaping may be appropriate in more rural settings, a brick or masonry enclosure around a tower and related ground equipment may be required in more developed locations of the Township.
- c. When an antenna is installed on a structure other than a tower, the antenna and electrical and mechanical equipment must be painted a neutral color and be compatible with the color of the supporting structure.
5. Lighting. Towers shall not be illuminated, unless required by the FAA or other applicable authority. If lights are required, then light levels, strobes, design, color, oscillation, etc. shall minimize disturbance to surrounding areas.
  6. State or federal requirements.
    - a. Towers must meet or exceed the current requirements of the FAA, FCC or those of any agency with authority to regulate tower and antenna standards. If standards or regulations change, then within six months of their effective date, unless mandated differently by the controlling agency, tower and antenna owners governed by this section shall bring all facilities into compliance. Failure to bring all facilities into compliance shall constitute grounds for their removal, at the owner's expense.
    - b. If the provisions of this section result in preventing or precluding the operation of an amateur radio antenna(s) (being an antenna operating for the purposes of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code and licensed by the Federal Communications Commission), the Planning Commission may approve the antenna as a special land use if the applicant reasonably demonstrates that this section precludes or prevents the operation of amateur radio. In granting a special land use for an amateur radio antenna, the Planning Commission may impose reasonable conditions, but they shall not interfere with reasonably accommodating amateur radio communications. Any conditions of approval shall not exceed the minimum practicable regulations necessary to accomplish the Township's legitimate purposes to regulate amateur radio antennas.
  7. Building codes; safety standards. To ensure the structural integrity of a tower, the tower owner shall ensure it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers, published by the Electronic Industries Association, as amended. If, upon inspection, Byron Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided, the owner shall have 30 days to bring the tower into compliance with any such standards. Failure to bring a tower into compliance within the 30 days shall constitute grounds to remove the tower or antenna, at the owner's expense.
  8. Measurement. Setback and separation distances shall be measured and applied to tower and antenna facilities located in Byron Township irrespective of municipal and county jurisdictional boundaries.
  9. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as an essential service, or a public or private utility.
  10. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law to construct and/or operate a wireless communication system have been obtained. All required franchises shall be filed with the zoning administrator.

11. Public Notice. Any special use, variance, or appeal request of an approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 8-44, in addition to any notice otherwise required by the Zoning Ordinance.
12. Signs. Signs are not allowed on an antenna or tower.
13. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of *Section 8.45.G*.
14. Multiple Antenna/Tower Plan. Byron Township encourages the users of towers and antennas to submit a single application for multiple towers and/or antenna sites.

**E. Permitted uses.**

1. General. The uses listed in this section are permitted, but require site plan review by the Planning Commission, in accordance with the provisions of *Section 11.4*. All information required by *Section 8.45.F* shall also be provided.
2. Permitted Uses. The following uses may be approved by the Planning Commission following site plan review:
  - a. Locating a tower or antenna, including the placement of additional buildings, or other supporting equipment used in connection with a tower or antenna, in any B-3 Interchange Business or D-1 Industrial District.
  - b. Locating antennas on existing structures or towers consistent with the following terms:
    - (1) Antennas on Existing Structures. An antenna, which is not attached to a tower may be approved as accessory to any non-residential use provided:
      - (a) The antenna does not extend more than 30 feet above the highest point of the structure;
      - (b) The antenna complies with all applicable FCC and FAA regulations; and
      - (c) The antenna complies with all applicable building codes.
    - (2) Antennas on Existing Towers. An antenna that is attached to an existing tower may be approved. To minimize the adverse visual impacts of numerous clustered towers in Byron Township, antenna collocation by more than one carrier on an existing tower shall take precedence over constructing new ones, provided collocation is consistent with the following:
      - (a) A tower that is modified or reconstructed to accommodate collocation shall be of the same type as the existing tower.
      - (b) To accommodate collocation, the height of an existing tower, which is modified or reconstructed, may be increased by not more than 30 feet over its original height.
      - (c) The height of a tower, which is modified or reconstructed, shall only be increased once.
      - (d) A height increase per *Section 8.45.E.2.b.i.(a)* does not require an increase to the separation distances required in *Section 8.45.K*. The original tower height, prior to any modifications, shall be used to calculate required tower separation.
    - (3) Onsite location.



- (a) A tower, which is being rebuilt to accommodate the collocation of an additional antenna may be moved to within 50 feet of its existing location as long as minimum separation distances to residential units or residentially zoned lands, as established in *Section 8.45.K* are maintained.
- (b) Upon the reconstruction of an existing tower to accommodate collocation, only one tower shall remain on a site.
- (c) To calculate separation distances between towers per *Section 8.45.K* a relocated tower shall continue to be measured from its original location. Its relocation shall not be considered a violation of *Section 8.45.K*.
- (d) The onsite relocation of a tower complying the requirements of this subsection may be approved by the zoning administrator.

**F. Special use permits.**

1. General. The following provisions shall govern the issuance of a special use permit for towers or antennas by the Planning Commission:
  - a. If a tower or antenna is not a permitted use under *Section 8.44.E*, then a special use permit shall be required.
  - b. Applications for special use permits under this section are subject to the procedures and requirements of *Chapter 9*, except as modified by this section.
  - c. In granting a special use permit the Planning Commission may impose conditions, which are necessary to minimize any potential adverse effects of the proposed tower on adjoining properties.
  - d. All engineering data submitted by the applicant shall be certified by a licensed professional engineer.
  - e. An applicant for a special use permit shall submit the information described in this section plus a non-refundable fee to reimburse the Township for the costs of reviewing the application.

**G. Towers.** In addition to that required for a special use application pursuant to *Chapter 9*, the following additional information shall be provided for any tower reviewed as a special land use:

1. A scaled site plan indicating the location, type and height of the proposed tower, on-site and adjacent land uses and zoning (including for any adjacent municipalities), master plan designation and all properties within the applicable separation distances as described in *Section 8.45.K*. adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed necessary by the zoning administrator to assess compliance with this section.
2. A legal description of the parent tract and leased parcel (if applicable).
3. The setback distances between the proposed tower and the nearest residence, residential plat and residentially zoned property.
4. The separation distances from other towers described in the inventory of existing sites submitted pursuant to *Section 8.45.D.3* shall be shown on a site plan or map.
5. The type(s) of existing tower(s) (mono-pole, lattice, etc.), as well as the owner/operator, if known.

6. A landscaping plan.
  7. Type of fencing and location and tower color and, if applicable, the method of camouflage and illumination.
  8. A statement indicating that the tower complies with *Section 8.45.D.3*, and all applicable federal, state or local laws.
  9. A notarized statement by the applicant indicating whether the tower, as designed, can accommodate future collocated antennas.
  10. Names of the entities providing the tower backhaul network, as described in the application and other cellular sites owned or operated in the Township by the applicant.
  11. A description of alternatives, other than using existing or proposed towers, to provide enhanced telecommunication services in Byron Township.
  12. Feasible location(s) for future towers or antennas in Byron Township, based on existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- H. **Factors considered in granting special use permits for towers.** In addition to the standards for considering a special land use, pursuant to *Chapter 8*, the Planning Commission shall consider the following in determining whether to grant a special land use. The Planning Commission may waive or reduce one or more of the requirements if it concludes that the goals of this section would be better served by such an action:
1. Height of the proposed tower;
  2. Proximity of the tower to residential structures and residential district boundaries;
  3. Nature of uses on adjacent and nearby properties;
  4. Surrounding topography;
  5. Tree cover;
  6. Design of the tower, with a particular emphasis on design characteristics that can reduce or eliminate visual impacts;
  7. Site access; and
  8. Other available and suitable existing towers, other structures, or alternate technologies that do not require using towers or structures, as discussed in *Section 8.45.G.1.k*.
- I. **Availability of suitable existing towers, other structures, or alternative technology.** A new tower shall not be permitted unless the applicant can reasonably demonstrate to the Planning Commission that there are no existing towers, structures or alternative technologies available to provide the level of service anticipated by the proposed antenna. An applicant shall submit information requested by the Planning Commission indicating why suitable towers, structures or alternative technologies are not available to address potential short-comings, such as:
1. An existing tower or structure that meets the applicant's engineering requirements is not located within the geographic area.
  2. Existing towers or structures are not tall enough to meet applicant's engineering requirements.
  3. Existing towers or structures do not meet the structural requirements necessary to support the applicant's proposed antenna and related equipment.

4. The proposed antenna, if mounted on an existing tower or structure would cause electromagnetic interference to other antennas.
  5. The fees, costs or contractual provisions to share an existing facility, or to adapt an existing tower or structure are unreasonable. Lease or tower modification costs that exceed the cost of a new tower are defined as being unreasonable.
  6. An applicant can demonstrate that there are other limiting factors rendering existing towers and structures unsuitable.
  7. An applicant can demonstrate that an alternative technology, not requiring a tower or structure, is infeasible. Costs of alternative technologies that exceed new tower or antenna development costs are not presumed to render the technology infeasible, but may be considered.
- J. **Setbacks.** The following setback requirements shall apply to all towers for which special land use approval is required. The Planning Commission may reduce setback requirements if it concludes that the goals of this section would be better served by such action:
1. A tower must be set back a from a lot line equal to at least 75 percent of its height.
  2. Guys and accessory buildings must meet minimum setback requirements.
- K. **Separation distances.** The following separation requirements shall apply to all towers and antennas for which special land use approval is required. The Planning Commission may reduce the separation requirements if it concludes that the goals of this section would be better served otherwise:
1. Separation from off-site uses/designated areas.
    - a. Tower separation shall be measured from the base of the tower to the lot line of the off-site use and/or the designated area as specified in Table 8.45.a, except as otherwise provided.
    - b. Tower separation requirements shall comply with the minimum standards established in Table 8.45.a.

**Table 8-45: Tower Separation from Off-Site Uses and Areas**

<b>Off-Site Use/Designated Area</b>	<b>Separation Distance</b>
Single-family or duplex residential units	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower whichever is greater
Vacant unplatted residentially zoned lands	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

2. Separation distances between towers.
  - a. Tower separation shall be measured as the straight line distance between the base of an existing tower and the base of a proposed tower. Separation distances are shown in Table 8.45.b.

**Table 8-45a: Separation from Existing Towers**

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 ft. tall or more</b>	<b>Monopole Less than 75 ft. tall</b>
<b>Lattice</b>	5000 ft.	5000 ft.	1,500 ft.	750 ft.
<b>Guyed</b>	5000 ft.	5000 ft.	1,500 ft.	750 ft.
<b>Monopole 75 ft. tall or more</b>	1,500 ft.	1,500 ft.	1,500 ft.	750 ft.
<b>Monopole less than 75 ft. tall</b>	750 ft.	750 ft.	750 ft.	750 ft.

- L. **Security fencing.** A tower shall be enclosed by a security fence that is at least six feet tall and which shall have an appropriate anti-climbing device. The Planning Commission may waive these requirements if the goals of this section would be better served otherwise.
- M. **Landscaping.** The following requirements shall govern landscaping for a tower requiring special land use approval. The Planning Commission may waive these requirements if the goals of this section would be better served otherwise.
  - a. Tower base facilities shall be landscaped with a buffer that effectively screens views from any nearby residential uses. A landscaped buffer shall be at least ten feet wide and be located at the outside the perimeter of the base compound.
  - b. Where the visual impact of a tower would be minimal, the landscaping requirements may be reduced or waived.
  - c. Existing trees and natural landforms shall be preserved to the maximum extent possible. In certain cases existing trees that surround a tower base may provide a sufficient buffer.
- N. **Buildings or other equipment storage.** Equipment cabinets or structures used in association with an antenna shall comply with the minimum setback and height requirements of the zoning district and all applicable building codes. Views of structures or cabinets shall be screened from all residential properties, which abut or are directly across the street. The screen shall consist either of a solid fence or masonry wall, six feet tall; or an evergreen screen, planted at a height of at least five feet and achieving an ultimate height of eight feet.
- O. **Removal of abandoned antennas and towers.** An antenna or tower that is not operated for 12 continuous months shall be considered abandoned and the owner shall remove them within 90 days after receiving a notice of abandonment from Byron Township. Failure to remove an abandoned antenna or tower within 90 day shall be grounds to remove the tower or antenna at the owner’s expense. If there are multiple users on a single tower, then this provision shall not become effective until all use of the tower ceases.
- P. **Nonconforming uses.**
  1. Not an expansion of a nonconforming use. Towers that are constructed and antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
  2. Existing towers. An existing tower may continue as it currently exists and routine maintenance (including replacement per the requirements of *Section 8.45.P.3*) shall be permitted. New construction other than routine maintenance on an existing tower shall comply with all the requirements of this section.
  3. Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding other provisions of this *Section 8.45.P*, a bona fide nonconforming tower or antenna that is damaged

or destroyed may be rebuilt without first obtaining administrative approval or a special use permit and without having to meet the separation requirements specified in *Section 8.45.J* and *Section 8.45.K*. The type, height and location of the replacement tower shall be consistent with all original approvals. All building permits to rebuild the facility shall be obtained within 180 days of the date the facility was damaged or destroyed. If a permit is not obtained or if the permit is allowed to expire, the tower or antenna shall be deemed abandoned as specified in *Section 8.45.O*.

## **Section 8.46            Landscaping Businesses**

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- A. Landscaping businesses are permitted in the R-R and R-A Districts, if approved as a special land use and if they comply with all of the following minimum requirements:
1. The minimum parcel area shall be 5 acres.
  2. The minimum length of street frontage shall be 200 feet.
  3. Loading activities shall not be permitted within 50 feet of a lot line abutting a residential district or residential use.
  4. All buildings and structures shall be located at least 50 feet away from any lot line.
  5. Equipment and vehicle maintenance areas and facilities shall be at least 150 feet away from any property line, if outdoors.
  6. Major vehicle and equipment repair work shall not be permitted. Minor vehicle and equipment repair shall take place only within fully enclosed buildings or other fully enclosed structures.
  7. Primary motor vehicle access shall be directly from a paved street.
  8. Buffer type 1 in Table 12.1.a, Buffer Area Landscaping Requirements, shall be installed and maintained if the use abuts residentially zoned or residentially used property.
  9. Outdoor storage areas are permitted only in rear yards. Views from streets and residential uses shall be screened by a wall or privacy fence of at least six-feet in height; provided, however, that dense evergreen landscaping, berms, or a combination of them, may be established to satisfy such screening requirement.
  10. The site shall be kept neat and orderly, free from accumulation of debris or other waste.
  11. Soil, fertilizer or similar loosely packaged materials shall be sufficiently contained to prevent them from spilling onto or contaminating adjacent properties, water bodies, wetlands or drainage courses.
  12. Persons or entities that provide snow removal services that store five tons or more of salt or of any sand/salt mixture and/or 1000 gallons or more of brine on-site shall comply with the Michigan Department of Environmental Quality, Water Resources Division, Part 5 Rules, "Spillage of Oil and Polluting Materials."
  13. Snowplowing service is permitted as an accessory use.
  14. Hours of operation shall be limited to the period from 6:00 a.m. to 10:00 p.m.; provided, however, that snowplowing services are not subject to this limitation on hours of operation.
  15. Site lighting that is operated other than during hours of operation shall be limited to building security lighting only and shall be sufficiently shielded so as not to cause adverse glare onto adjacent properties or streets.

## **Section 8.47            Colleges and Universities**

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- A. In the R-A, R-R, R-S, R-U, MHC and MFR Districts, buildings shall be set back at least 50 feet from the nearest right-of-way line of a public or private street and at least 50 feet from any other property line.
- B. In the B-1, B-2, B-3, O-S, D-1 and D-2 Districts, buildings shall be set back at least 50 feet from the nearest right-of-way line of a public or private street and at least 50 feet from all property lines abutting any agricultural or residential zone district. Minimum required building setbacks from other parcels in the commercial and industrial districts shall be as stated in Table 6-4.
- C. If permitted, dormitories, fraternity houses, and sorority houses shall be located on the same parcel as the academic or other facilities of the college or university with which such buildings are associated.

# Chapter 9 Special Use

## Section 9.1 Statement of Purpose

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This chapter identifies the procedures and requirements to review special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as having unique characteristics (relative to location, design, size, noise, traffic, hours of operation, public infrastructure needs and others), which require the application of review and approval standards to safeguard the general health, safety and welfare of the Township.

The following review procedures are instituted to provide opportunities to accommodate uses which, under certain circumstances, may be detrimental to or incompatible with other permitted land uses. The procedures apply to land uses, which are specifically designated as Special Land Uses in the land use tables of this Zoning Ordinance (Tables 5.2 and 6.2).

## Section 9.2 Review Process

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- A. **Authority.** The Planning Commission shall have the authority to review special land uses, subject to conditions of design, operation and appropriate and reasonable safeguards as the Commission may require. Special land use and site plan review shall be processed concurrently under subsection B, or may occur in a two-step process in accordance with subsection C.
- B. **Special Land Use and Final Site Plan Review.** The Planning Commission shall review all details of the application and submittal to confirm compliance with all applicable zoning requirements and to ensure the satisfaction of site plan approval standards (Section 11.6) and special land use approval standards (Section 9.5).
- C. **Special Land Use and Concept Plan Review Option**
  - 1. **Concept Plan.** The Planning Commission shall review all details of the application and submittal to ensure the satisfaction of special land use approval standards (Section 9.5) and to provide a cursory authorization of the general site layout. The public hearing per Section 9.4 occurs during Concept Plan review. Concept plan review and approval shall not be construed as a final confirmation of zoning compliance.
  - 2. **Final Plan.** The Planning Commission shall review all details of the application and submittal to confirm compliance with all applicable zoning requirements and to ensure the satisfaction of site plan approval standards (Section 11.6). A final plan shall be submitted by published meeting deadline within one (1) year of special land use approval and concept plan approval. If not submitted within one (1) year, the concept plan is determined to be expired.

## Section 9.3 Submission Requirements

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- A. Applications for special land uses shall be submitted to the zoning administrator along with the Township-required number of copies of a site plan, written documentation and fees, as established by the Township Board. Applications will be processed according to the procedures of this chapter.
- B. The zoning administrator shall review the proposed application to determine if all required information has been supplied and will only then forward the complete application and supporting data to the Planning Commission. If the application is found to be incomplete, the zoning administrator shall return it to the applicant with a written explanation of any deficiencies.

- C. An application for a special land use shall include the following:
1. Applicant's name, address and telephone number.
  2. Address and tax identification number of the property.
  3. A signed statement that the applicant is the owner of the property, or is acting as the owner's representative.
  4. A complete site plan containing all the applicable data required by Section 11.3 or a concept plan containing the same information, except that only preliminary grading, stormwater, and utility information is required, and lighting and landscaping details are not necessary.
  5. Supporting statements, evidence, data, information and exhibits that address the standards for assessing special land use applications as provided in Section 9.5.
  6. Any additional information deemed necessary by the Planning Commission to determine the impact of the proposed special land use on adjacent properties, public infrastructure, and the community as a whole. Information may include, but is not limited to traffic impact analyses, environmental impact assessments, market studies (to determine market demand and feasibility), fiscal impact analyses or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads and/or environment. Any additional studies deemed necessary by the Township may be completed by an individual or firm of the township's choosing, but at the applicant's expense.

#### **Section 9.4 Public Hearing Requirements**

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The zoning administrator or designee shall review the application and if determined to be complete, shall schedule a public hearing to consider the special land use. The public hearing shall be noticed as required by the Michigan Zoning Act.

#### **Section 9.5 General Standards for Approval**

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The Planning Commission shall review the particular circumstances and facts applicable to each proposed special land use with respect to the following standards and requirements. If it is found that the proposed special land use meets all of the standards, it shall be approved.

- A. **Zoning Ordinance and Master Plan.** The special land use will be consistent with the goals, intent, and purposes of the Zoning Ordinance and the Byron Township Master Plan.
- B. **Use Compatibility and Character.** It will be designed, constructed, operated, and maintained to ensure compatibility with adjacent and nearby land uses, and it will not change the essential character of the area in which it is proposed. Further, it will not impede the normal and orderly development and improvement of surrounding property.
- C. **Public Services and Infrastructure.** It will be adequately served by essential infrastructure and services, such as roads, water, sewer, storm water drainage infrastructure, schools, law enforcement, and fire protection; will not create excessive additional requirements at public cost for infrastructure; and will not be detrimental to the economic welfare of the community.
- D. **Impact and Nuisances.** The use and its site design will not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole, and it will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to persons, property or general welfare by reason of excessive activity, noise, vibration, smoke, fumes, glare, odor, or visual impact.



- E. **Environmental Impact.** The use will not cause environmental degradation or significant change to landscapes, topography, and sensitive natural resources.
- F. **Vehicle and Pedestrian Safety.** The use will not result in unsafe traffic conditions or negative impacts to bicycle and pedestrian travel.

## **Section 9.6                      Specific Requirements**

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In addition to the General Standards of Approval in *Section 9.5*, any specific requirements for a use, as listed in *Chapter 8*, shall also be met.

## **Section 9.7                      Attachment of Special Conditions**

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- A. As may be permitted by State law and this Ordinance, the Planning Commission may impose special conditions or limitations upon an approval which it deems necessary to fulfill the spirit and purpose of these regulations. The conditions may include:
  1. Assurances that public services and facilities affected by a proposed land use or activity will be capable of accommodating any increased service and facility demands;
  2. Protection of the natural environment, conservation of the natural environment and conservation of natural resources and energy;
  3. Assurances that the use or activity is compatible with adjacent land uses;
  4. Promotion of the beneficial use of land in a socially and economically responsible manner.
- B. Special conditions imposed shall meet each of the following criteria:
  1. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use under consideration, residents and landowners immediately adjacent to the proposed land use and the community as a whole.
  2. Be related to the valid exercise of police powers and their purposes, which are affected by the proposed use.
  3. Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in this Ordinance for the land use under consideration and be necessary to insure compliance with those standards.
- C. The conditions imposed, with respect to the approval of a special land use, shall be recorded in the approval action and shall remain unchanged, except if amended by the planning commission following the same procedures as the original approval, including public hearing.

## **Section 9.8                      Reapplication**

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A special land use application, which has been denied wholly or in part by the Planning Commission shall not be resubmitted within 12 months from the date of denial; except on the grounds of newly discovered evidence or proof of changed conditions. A reapplication shall be processed in the same manner as the original application.

## **Section 9.9                      Amendments**

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The site plan approved in conjunction with the special land use shall become part of the approval record. Any improvements relative to the authorized use shall be consistent with the approved site plan, unless a change is approved by the zoning administrator or planning commission, in accordance with

Section 11.5. Changes to the special use or any conditions attached to its original approval, shall be processed as a new use, in accordance with the procedures in Section 9.3.

## Section 9.10            Validity and Revocation of Special Land Use Permits

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- A. **Ownership.** Special land use approval, with all associated benefits and conditions shall run with the land. Changes of property ownership does not invalidate the special land use approval; provided, all conditions of approval continue to be met during operation.
- B. **Validity of Permit.**
1. Construction and Final Plan.
    - a. Special Land Use with Final Site Plan Approval. If building construction has not commenced and proceeded meaningfully toward completion by the end of the 12 months, the zoning administrator shall notify the applicant in writing that the permit has expired.
    - b. Special Land Use with Concept Plan Approval. If the applicant does not apply for Final Site Plan approval within 12 months of Concept Plan approval, the zoning administrator shall notify the applicant in writing that the permit has expired.
    - c. Extension of Time: The planning commission may grant one permit extension of up to an additional 12 months, if a request is made by the applicant, in writing, prior to the expiration of the original period. In such case, the applicant shall show evidence of unforeseen circumstances that have caused a delay and that a good faith effort is being made to proceed with construction.
  2. Unless otherwise limited by conditions of approval, a special land use approval shall be valid for as long as the approved special land use continues in accordance with the terms and conditions of the approval.
  3. Special land use approval shall also expire on the occurrence of one (1) or more of the following conditions:
    - a. If replaced or superseded by a subsequent special land use approval.
    - b. If replaced or superseded by a permitted use.
    - c. If the applicant requests the rescinding of the special land use approval.
    - d. The permitted special land use ceases operation for 12 consecutive months.
- C. **Permit Revocation.** The Planning Commission shall have the authority to revoke special land use approval following a hearing, if building construction and site development does not proceed in conformance with the approved site plan or violates the terms and conditions of approval. Upon discovery of a violation, the Township zoning administrator shall issue a stop work order and a notice to appear for a hearing before the Planning Commission. Notice of the hearing date shall be provided to the applicant no less than 10 days prior to the date of the meeting.

## Section 9.11            Fees

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Before a building permit shall be issued all application fees, including those incurred for additional professional reviews or studies, shall be paid in full by the applicant.

# Chapter 10 Temporary Conditional Uses

## Section 10.1 Statement of Purpose

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A temporary conditional use is an allowed use in a zoning district that requires an additional level of review either by the zoning administrator or Planning Commission to consider any special circumstances. These may relate to ensuring that public services and facilities affected by a proposed temporary use will be capable of accommodating any increased demand and the use will be compatible with adjacent land uses.

## Section 10.2 Qualifying Conditions

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- A. **Review Authority.** The zoning administrator shall consider and approve a temporary conditional use, as listed in *Section 10.3*, if it complies with all requirements of this section. The zoning administrator may also, at his or her sole discretion, forward an application for a temporary conditional use to the Planning Commission for consideration. The zoning administrator or planning commission shall review the application and other submitted materials relevant to the temporary conditional use and shall approve, deny or approve it with conditions. Other township staff or consultants may be consulted regarding any potential risk the use may present as to traffic, utility, fire or safety issues. If an application is denied, the reasons for denial shall be stated in writing and a copy provided to the applicant
- B. **Application.** An applicant for a temporary conditional use shall submit the following to the zoning administrator:
1. A completed application form, the required application fee and any escrow account deposit.
  2. A written statement describing the requested use and other relevant information, such as an operations and traffic control plan and the proposed duration of the use.
  3. A plan of the site on which the use will be conducted, depicting information deemed necessary by the zoning administrator. Information shall include the following, unless determined by the zoning administrator to be unnecessary, given circumstances:
    - a. Property lines;
    - b. The zoning designation and adjacent land uses and their zoning;
    - c. Location of fire hydrants;
    - d. Existing and proposed buildings or structures;
    - e. Boundaries of the proposed activity;
    - f. Lighting;
    - g. Parking calculations based on the provisions of *Section 12.3*;
    - h. Traffic circulation;
    - i. Location and size of signs;
    - j. Location and method of waste disposal;

- k. Proof of liability insurance;
  - l. Any other information deemed necessary by the zoning administrator.
4. Proof of ownership of the land on which the use will be conducted or, if the applicant is not the owner, written approval by the property owner to establish and conduct the use.
  5. All other required permits and approvals from other governmental bodies or agencies.
- C. **Review Criteria.** The following shall be considered, as applicable, in making a determination regarding approval of a temporary conditional use:
1. The use or structure does not have an unreasonable detrimental effect upon adjacent properties;
  2. The use or structure is reasonably necessary for the convenience and safety of the construction proposed;
  3. That the use or structure does not impact the nature of the surrounding neighborhood;
  4. That access to the area or structure will not constitute a traffic hazard due to ingress or egress;
  5. That adequate off-street parking is available to accommodate the use; and
  6. No parking space required for any other use shall be occupied by the temporary use or structure.
- D. **Conditions.** When approving a temporary conditional use, the zoning administrator or Planning Commission may impose reasonable conditions, including, but not limited to, those necessary to:
1. ensure that public services and facilities affected by a proposed temporary conditional use will be capable of accommodating any increased public services and facilities resulting from the use;
  2. protect the natural environment and conserve natural resources and energy; and
  3. ensure compatibility with adjacent and nearby land uses and to promote the use of land in a socially and economically responsible manner.

### Section 10.3 Permitted Temporary Conditional Uses

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The following temporary conditional uses may be approved in accordance with this section:

- A. **Mobile Homes.** One mobile home may be approved for use as temporary living or working quarters for not more than 90 days while a dwelling, other building or structure is being constructed on the same parcel of land.
- B. **Storage of Supplies.** The temporary storage of building supplies and machinery, the use of temporary storage buildings, and the assembly of construction materials may be approved for not more than 12 months.
- C. **Seasonal Uses.** A seasonal or non-recurring temporary use, such as sale of Christmas trees, fireworks, farm produce and similar activities, including a temporary sign not exceeding 16 square feet, may be approved for not more than 30 days.
- D. **Parking Areas.** The use of an unimproved parking area, otherwise complying with *Section 12.3*, may be approved for not more than 12 months, in accordance with *Section 10.2* of this Ordinance.
- E. **Mineral Resource Processing.** The temporary processing of natural or artificial mineral materials,

including but not limited to concrete crushing, may be approved in the D-1 District only, for not longer than 14 days. Processing shall only be conducted between 7:00 a.m. and 6:00 p.m.

#### **Section 10.4 Use Requirements**

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- A. Temporary conditional use shall comply with all of the following minimum requirements:
1. The minimum required setback for all buildings, structures, signs and off-street parking areas, as specified in the relevant zoning district, shall be met.
  2. The temporary use shall not prevent the continued use of sidewalks, rights-of-way, fire lanes or other areas established for use by the public.
  3. Signs shall comply with the applicable requirements of *Section 12.4*.
  4. The duration of a temporary use shall not exceed 30 days, except for those authorized for a greater duration by this section and except as stated in *Section 10.3*.
  5. All equipment, materials, goods, fixtures and other items associated with the temporary use shall be promptly removed from the premises at the conclusion of the use. In any event, all items shall be removed within five days after the allowed duration for the use expires.
  6. Goods, merchandise and display materials shall be stored indoors during non-business hours, except those items permitted to remain outdoors under the terms of the approved temporary conditional use.
  7. Landscaping may be required, based on the location of the use, its visibility from other properties and the duration of the use.
- B. If the applicant demonstrates good cause, the zoning administrator may approve a second temporary conditional use, to become effective upon the expiration of the first. Any subsequent approvals, however, shall be considered and may be approved only by the Planning Commission as a special land use.

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# Chapter 11 Site Plan Review

## Section 11.1 Purpose

The site plan review requirements provide a consistent and uniform method for reviewing proposed development plans to ensure full compliance with the standards contained in this Ordinance, other applicable local ordinances, standard engineering practices and state and Federal laws. The procedures of this Chapter are further intended to:

- A. Achieve efficient use of land;
- B. Protect natural resources both on the site and in the vicinity of the site;
- C. Minimize adverse impacts on adjoining or nearby properties;
- D. Provide a mechanism to review new development, as well as redevelopment of existing sites, and bring existing development into compliance with current standards; and,
- E. Encourage cooperation and consultation between the Township and the applicant to facilitate development in accordance with the Township's land use objectives.

## Section 11.2 Scope of Application

- A. Site Plan Review shall be required for the construction and improvements listed in Table 11.2. The level of review varies, depending upon the project scope. All construction or building modification is also subject to building code and permit requirements.

**Table 11.2: Application Requirements for Development Types**

Proposed Use or Development	Site Plan	Sketch Plan
Additions to existing buildings in any zoning district; provided the use of the building will not change and the addition does not exceed 25 percent of the total floor area of the existing building or 5,000 square feet, whichever is less.		AR
Changes in use of any existing building in any district; provided, the use is a "Permitted Use" and no building expansion will exceed 25 percent of the total floor area of the existing building or 5,000 square feet, whichever is less.		AR
Any parking lot expansion resulting in an increase in parking spaces of 15 or less.		AR
Minor changes to an approved site plan, involving the addition or relocation of sidewalks, refuse containers or lighting		AR
A decrease in the size of a building from that specified in an approved site plan.		AR
An accessory building or structure.		AR
Any "Permitted Use" within the Commercial, Industrial, MFR or PUD Districts; except for expansions and additions, as noted above	PC	
Any "Special Land Use" in any district; except for expansions and additions of existing special uses, as noted above	PC	
Site condominiums in any district	PC	
Any expansion of buildings or structures or parking lots; or change of use, in excess of the limits set for Administrative Review	PC	
As otherwise required by the zoning ordinance	PC	
<b>AR: Administrative Review (zoning administrator and staff); PC: Planning Commission Review</b>		

- B. Site plan or sketch plan review shall not be required for any single or two-family dwelling when

permitted by right on a lot on which there exists no other building or use or for any home occupation or accessory building in a Residential District.

### Section 11.3 Submittal Requirements

- A. Site plans and sketch plans shall contain the information required in Table 11.3. The zoning administrator may waive specific requirements for a sketch plan and the planning commission may waive requirements for a site plan, if it is determined they do not apply to the property or use in question.

**Table 11.3: Site Plan and Sketch Plan Submittal Requirements**

Required Elements	Site Plan	Sketch Plan
<b>A. Application and Site Information</b>		
Name and address of the applicant and property owner	X	X
Address and common description of the property and property ID number	X	X
Legal description	X	
Total acreage and net acreage (land minus public or private right-of-way)	X	X
Description of proposed project or use, type of building or structures, and name of proposed development, if applicable	X	X
Name and contact information for the firm or individual who prepared the site plan	X	X
Evidence of property ownership or written power of attorney when the applicant is acting as an agent of the property owner	X	X
<b>B. Site Plan Descriptive and Identification Data</b>		
Plans shall consist of an overall layout for the entire development, drawn to an engineer's scale of not less than 1 inch = 50 feet for property less than 3 acres, or 1 inch = 100 feet for property 3 acres or more in size. Sheet size shall be sufficient to show adequate detail. If a large development is shown in sections on multiple sheets, then one overall composite sheet shall be included	X	X <sup>1</sup>
Title block with sheet number/title name, address and telephone number of the applicant and firm or individual who prepared the plans and date(s) of submission and any revisions (month, day, year)	X	X
Scale and north-point	X	X
Location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile	X	
Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared drawings	X	
Zoning classification of applicant's parcel and all abutting parcels	X	X
Proximity to section corner and major thoroughfares	X	
<b>C. Site Data</b>		
Existing lot lines, building lines, structures, parking areas and other improvements on the site	X	X
Existing lot lines, building lines, structures, parking areas and other improvements within 100 feet of the site	X	
Topography on the site and within 100 feet of the site at 2 foot contour intervals, referenced to a U.S.G.S. benchmark	X	
Site conditions, including existing drainage courses, floodplains, lakes, streams, wetlands and woodlands	X	X
Proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements on the site	X	X
All existing and proposed easements	X	X
<b>D. Building and Structure Details</b>		
Location, height, and outside dimensions of all proposed buildings or structures	X	X



**Table 11.3: Site Plan and Sketch Plan Submittal Requirements**

<b>Required Elements</b>	<b>Site Plan</b>	<b>Sketch Plan</b>
Building floor plans and total floor area	X	
Details on accessory structures	X	
Size, height and method of shielding for all site and building lighting	X	
Location of all freestanding signs, with setback	X	X
Size, height, and lighting of all proposed signs	X	
Building facade elevations for all sides, drawn at an appropriate scale	X	
Description of exterior building materials	X	X
Location, height, and outside dimensions of all outdoor storage areas and facilities.	X	X
<b>E. Access and Circulation</b>		
Dimensions, curve radii and centerlines of existing and proposed access points, roads and road rights-of-way or access easements	X	X
Dimensions of acceleration, deceleration, and passing lanes	X	
Opposing driveways and intersections within 250 feet of site	X	
Cross section details of proposed roads, driveways, parking lots, and non-motorized paths illustrating materials and thickness	X	
Dimensions of parking spaces, landscaped islands, circulation aisles and loading zones	X	X
Calculations for required number of parking and loading spaces	X	X
Designation of fire lanes	X	X
Traffic regulatory signs and pavement markings	X	
Location of existing and proposed sidewalks/pathways within the site or right-of-way	X	X
Proof that required permits have been submitted to the Kent County Road Commission or Michigan Department of Transportation, as applicable	X	
<b>F. Landscape Plans:</b>		
General location and canopy outline of all existing woodlands, with an identification of trees to be removed and trees to be preserved	X	X
Description of methods to preserve existing trees	X	
Location of existing and proposed lawns and landscaped areas, including percentage of lot area	X	X
Landscape plan, including location and type of all proposed shrubs, trees, and other live plant material, according to <i>Section 12.1</i>	X	
Notation of required greenbelts, buffers and screening and calculation of required plants	X	X
Location and area calculations for all required common open space	X	
<b>G. Information Concerning Utilities, Drainage and Related Issues:<sup>2</sup></b>		
Location of existing and proposed septic systems or sanitary sewers	X	
Location and size of existing and proposed well sites, water service and fire suppression systems	X	
Fire service features on site, including fire hydrants and fire connections mounted on buildings	X	X
Stormwater drainage and retention/detention calculations	X	
Site grading, drainage patterns and other stormwater management measures	X	X
Stormwater retention and detention ponds, including grading, side slopes, depth, high water elevation, volume and outfalls	X	
Location underground storm sewers and drains	X	X
Size, slope and elevation data for all storm sewers and related structures	X	
Location of above and below ground gas, electric and telephone lines, existing and proposed	X	
Sedimentation control measures	X	

**Table 11.3: Site Plan and Sketch Plan Submittal Requirements**

<b>Required Elements</b>	<b>Site Plan</b>	<b>Sketch Plan</b>
Location of transformers and utility boxes	X	
Site lighting, including locations and details for lighting fixtures	X	
Waste receptacle enclosure location and details, if required	X	
Locations and storage containment details for any hazardous materials or chemicals, if applicable	X	
<b>H. Additional information required for Residential Development</b>		
The number and location of each type of residential unit	X	
Density calculations by type of residential unit (dwelling units per acre)	X	
Garage and/or carport locations and details, if proposed	X	
Mailbox clusters	X	
Location, dimensions, floor plans and elevations of common building(s) (e.g., recreation, laundry, etc.), if applicable	X	
Location and size of recreation and open space areas and an indication of type of recreation facilities proposed for recreation area	X	
<b>I. Other Information</b>		
Any required permits by other Township, County, State or Federal agencies, or proof that permit applications have been submitted	X	X
Other information required by the Planning Commission to demonstrate compliance with this Ordinance	X	X

Notes to Table 11.3:

- (1) The zoning administrator may allow submittal of a site survey when the proposed use or development has minimal or no exterior effect, provided that the survey shows all existing conditions on the site and all dimensions.
- (2) The zoning administrator may require utility, grading and drainage elements to be reviewed by an engineer as part of site plan review. All costs related to this review are subject to the Township escrow policy.

**Section 11.4                      Procedures and Requirements**

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- A. **Plan Review.** Site plans and sketch plans, according to Table 11.2, must be submitted in accordance with the following procedures and requirements:
1. Applicant attendance. The application shall be submitted by the owner of an interest in the land for which site plan approval is sought, or the owner’s designated agent. The applicant or a designated representative must be present at all scheduled review meetings or consideration of the plan shall be tabled due to lack of representation.
  2. Site plan submittal. The applicant shall submit the Township-required number of copies of a site plan or four copies of a sketch plan to the Township. The application shall not be considered complete until all application materials have been submitted and are verified as complete. [Amended December 22, 2014]
    - a. A complete application form;
    - b. A written description of the proposed project or use;
    - c. A complete site plan or sketch plan that includes all information required in Table 11.3, "Submittal Requirements."
  3. Technical reviews. The application and site plan or sketch plan shall be forwarded to the zoning administrator. Depending on the type of development, the zoning administrator may also have

copies forwarded to a consulting engineer, planner or other professional, and to the township attorney.

4. Revised plans. The petitioner may submit revised plans in response to technical review comments. However, revised plans must be submitted in sufficient time, as specified in the planning commission rules of procedure or as determined by the zoning administrator, prior to a scheduled meeting. Revised plans submitted at a meeting or without adequate time for review prior to a meeting shall not be accepted. Revised plans or other material that have not been reviewed by the zoning administrator and other professionals, as applicable, shall not be considered.
  5. Planning Commission or administrative review. When a site plan or sketch plan has been reviewed and determined to be complete, it shall be placed on the agenda of the planning commission or scheduled for administrative review, as applicable. Incomplete or deficient submittals shall not be placed on a planning commission agenda (for site plans) or scheduled for an applicant review meeting (for sketch plans). The reviewing authority shall review the application, site plan or sketch plan, and recommendations from staff, consultants and reviewing agencies, as applicable. Based on the plan, recommendations, if any, and the standards of *Section 11.6*, the reviewing authority may approve, deny, approve with conditions or table action on the plan.
- B. Agency approvals:** The applicant shall be required to obtain all other necessary agency permits from the Michigan Department of Natural Resources and Environment, Michigan Department of Transportation, Kent County Road Commission, Kent County Drain Commission, Kent County Health Department and any other County, State or Federal agency with jurisdiction. The Planning Commission may approve a site plan conditioned on obtaining necessary permits, provided that proof of application for required permits is submitted.
- C. Recording of review action:** Each action taken regarding a site plan or sketch plan review, along with the reasons for that action, shall be recorded in the minutes of the Planning Commission meeting or in writing by the zoning administrator, as applicable. Upon approval, copies of the application and plan, signed by the zoning administrator, shall be maintained on file at the Township, with a copy provided to the applicant.
- D. Engineering review:** The zoning administrator shall determine if a professional review of the site plan or sketch plan by a consulting engineer is required. If so, the consulting engineer shall make a full review of the engineering plans and provide written comments to the zoning administrator prior to action being taken to approve or deny the site plan or sketch plan application. All costs related to this review shall be subject to the Township Escrow Policy.
- E. Completion of site design.**
1. Following final approval of the site plan or sketch plan, a building permit may be requested. It shall be the responsibility of the applicant to obtain all other applicable County, State or Federal permits prior to issuance of a building permit.
  2. If construction has not commenced within one year of site plan or sketch plan approval, the approval becomes void and a new application shall be required. The applicant may request up to an additional 12 month extension by the planning commission or zoning administrator, as applicable; provided a written request is received before the expiration date and the site plan complies with current standards (i.e. any amendments to the Zoning Ordinance since the site plan was approved).

3. It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site plan on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site plan approval is sought according to the requirements of this Chapter and approved. Any property owner who fails to maintain the property in accordance with the approved site plan shall be deemed in violation of the applicable use provisions of this Ordinance and shall be subject to penalties.
- F. **Conditions.** Conditions may be imposed on site plan or sketch plan approval which are intended to ensure compliance with the review standards of this chapter and the requirements of this ordinance.
- G. **Performance guarantee.** A performance guarantee may be required, in accordance with *Section 14.6*, to ensure completion of required improvements as shown on the approved site plan.

### **Section 11.5                      Changes to Approved Site Plans or Sketch Plans**

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- A. Any proposed change to an approved sketch plan may be approved by the zoning administrator; provided, at his/her sole discretion, the request for a change may be referred to the planning commission.
- B. Minor changes to an approved site plan may be approved by the zoning administrator without requiring a resubmittal to the Planning Commission; provided that the applicant or property owner notifies the zoning administrator of any proposed amendment to the plan prior to making the change on the site, and the zoning administrator determines the proposed minor revision does not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  1. Reduction in building size or increase in building size up to 25 percent of the total approved floor area or 5,000 square feet, whichever is less.
  2. Movement of buildings or other structures by no more than 20 feet.
  3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  4. Changes in building materials to a comparable or higher quality.
  5. Building additions, of up to 25 percent of the total floor area but not more than 5,000 square feet, which do not alter the character of the use.
  6. Changes required or requested by county, state or federal regulatory agencies in order to conform with other laws or regulations.
  7. Other minor changes determined by the zoning administrator to be not material or significant in relation to the entire plan and the use or uses covered by the plan.
- C. Where the modifications are not determined to be minor, the site plan shall require resubmittal to the planning commission for review as a site plan amendment, as required for the original approval.

## Section 11.6 Standards for Site Plan Approval

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Site plan approval shall be granted only if the site plan meets all applicable standards set forth in this Ordinance as outlined below:

- A. **Zoning Compliance and Compatibility.** Site plan proposals shall conform to all dimensional and building requirements of the Zoning Ordinance, in addition to any specific use requirements. If necessary, variances shall be secured prior to the Planning Commission's final site plan approval. Site planning shall consider both zoning compliance and compatibility with adjacent properties and land uses.
- B. **Traffic, Driveways, and Emergency Access.** The number, location, size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic features, the number, spacing, and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties. All sites and buildings shall be accessible to emergency services vehicles and personnel to respond to emergencies and calls for service.
- C. **Parking, Stacking, and Loading.** Parking lot design shall demonstrate compliance with all dimensional and circulation requirements and shall be arranged to provide safe and convenient access to buildings and land uses. If applicable, stacking and loading spaces shall be designed to minimize impact to internal circulation and off-site traffic patterns.
- D. **Stormwater and Utilities.** Stormwater detention and drainage systems shall be designed so the removal of surface waters will not adversely affect neighboring properties or public stormwater drainage systems. Unless impractical, stormwater shall be removed from all roofs, canopies and paved areas by underground surface drainage systems. Water and sewer installations shall comply with all Township, county and state specifications and requirements. All site plans shall be reviewed and approved by the Township Engineer as a condition of approval.
- E. **Landscaping and Screening.** All applicable landscaping, buffering, and screening requirements shall be satisfied, and sites shall not be significantly disturbed in ways beyond what is appropriate for the reasonable development of a site. Site plans shall demonstrate that the impact of exterior uses and activities is minimized by required landscaping and screening.
- F. **Lighting.** Lighting plans shall demonstrate compliance with all requirements, and lighting plans shall be designed to ensure safe conditions and minimal impact to neighboring property and the night sky.
- G. **Outside Agencies.** Applicants shall secure all applicable outside agency approvals, including but not limited to the Kent County Road Commission, Kent County Drain Commission, Fire Department, and State of Michigan regulatory agencies.
- H. **Freestanding Signage.** Freestanding signage shall comply with all dimensional requirements and limitations, and signs shall not obstruct sightlines at intersections or interfere with driver visibility.

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# Chapter 12 Site Development Requirements

## Section 12.1 Landscaping

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- A. **Intent.** This section promotes the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping. Landscaping and landscaped buffers help protect and enhance land uses and the visual image of the Township. They further preserve natural features, improve property values and can alleviate the impacts of noise, traffic and visual distractions. Landscaped buffers protect less intense uses from noise, lighting and other impacts associated with more intensive land uses. Specifically, the intent of these provisions is to:
1. Improve the appearance of off-street parking and storage areas and property abutting public rights-of-way.
  2. Protect and preserve the appearance, character and value of the neighborhoods, which abut non-residential areas, parking lots and other intensive uses.
  3. Reduce soil erosion and depletion.
  4. Increase soil water retention, thereby helping to prevent flooding, erosion and sedimentation and enhancing groundwater recharge.
  5. Remove air pollutants and reduce, eliminate or control glare, reflection and heat island effects.
  6. Assist in directing safe and efficient traffic flow and prevent vehicular and pedestrian circulation conflicts.
- B. **General requirements.** These regulations apply to all new uses and the expansion of existing uses requiring site plan approval.
1. Landscaping shall be installed before occupancy, unless the planning commission authorizes occupancy prior to complete landscape installation, due to unforeseen weather conditions or other circumstances beyond the applicant's control. In such a case, a performance guarantee, per *Section 14.6* shall be provided to ensure completion of the project as required. All landscaping shall be completed within one full growing season.
  2. All landscaping shall be maintained after planting and regularly watered, fertilized, pruned and kept free from disease. The owner or controlling party shall be responsible for maintenance.
  3. Diseased or dead plants shall be replaced within one growing season.
  4. All plants shall be hardy per climatic conditions in Byron Township.
  5. All landscaped areas shall be mulched and those not containing trees and shrubs must be planted with ground cover. Mulch, of any type, is not considered groundcover, nor is it a substitute for ground cover. Mulch may include shredded bark, wood chips, lava rock, decorative stone and similar generally accepted landscape accent materials.
  6. The overall landscape plan shall not contain more than 25 percent of any one plant species.
  7. Trees and shrubs shall not be placed closer than four feet to a fence, wall, or property line.

8. For a corner lot or other lot with more than one frontage, where landscaping is required, all frontages shall be landscaped.
  9. Berms shall be designed to vary in height and shape to create a more natural appearance. An unbroken earth mound of uniform height shall be avoided. The maximum slope for a berm shall be one foot vertical to three feet horizontal, unless otherwise allowed by the Planning Commission.
  10. Landscaping shall not obstruct sight distance, per *Section 3.3.I.*
  11. Landscaping plans are subject to Planning Commission review and approval.
- C. The Planning Commission may vary the requirements of this section under any of the following circumstances:
- a. Existing vegetation or topographic features make compliance with requirements unnecessary or difficult to achieve.
  - b. The application of requirements will result in a significant loss of existing vegetation, or natural or cultural features.
  - c. Modification of requirements will clearly result in a superior design that could not be otherwise achieved.
  - d. Where the distance between a building, parking area or use is more than 200 feet from a side or rear lot line, the Planning Commission may reduce the buffer area requirements along the applicable lot line(s) by 50 percent.
- D. The Planning Commission may impose conditions on landscaping as part of site plan review.
- E. Where a development is proposed in phases, each phase shall comply with all applicable landscaping requirements.
- F. Where landscaping requirements are based on a distance measured along a property line and the result is a fraction of a given requirement, the required landscaping for just that area shall be multiplied by the fraction. For example, when a fractional area is equal to 30 percent of the required distance the number of required plants shall be multiplied by 0.30. A fraction less than 25 percent may be disregarded.
- G. To ensure that all landscaping is installed, as a condition of approval a letter of credit or some other performance guarantee may be required.
- H. Low impact design, such as use of native vegetation, rain gardens and vegetated swales is encouraged.
- I. **Buffer areas.**
1. A buffer area is required where any use in a commercial and industrial district is adjacent to agriculturally and residentially zoned land and where multiple family residential land uses are adjacent to land in the R-A, R-R, R-S, R-U and MHC districts.
  2. A buffer area is not required if the qualifying adjacent zoning districts are separated by a public right-of-way.
  3. A buffer area shall be parallel to and follow the property line tangent to the qualifying zoning district.
  4. A buffer area shall be required even when the adjacent property is undeveloped.



5. Except for access drives or private streets, determined by the Planning Commission to be necessary to provide safe access to a property, a building, structure or parking lot shall not encroach within a required buffer area.
6. When adjacent to a PUD containing a residential land use - a use in a commercial, industrial or multiple family residential district shall provide a buffer area along the property line adjacent to the residential use, in accordance with the requirements of Table 12.1.a. The planning commission, however, may waive or modify the required buffer, depending on the setbacks and perimeter landscaping provided within the PUD.
7. Buffer areas are required as shown in Table 12.1.a.

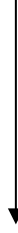
**Table 12.1.a: Buffer Area Requirements by District\***

Subject Zoning District	Adjacent District					
	R-A	R-R	R-S	R-U	MHC	MFR
<b>B-1</b>	3	3	3	3	3	3
<b>B-2</b>	1	1	1	1	1	1
<b>B-3</b>	1	1	1	1	1	1
<b>O-S</b>	2	2	2	2	2	2
<b>D-1</b>	1	1	1	1	1	1
<b>D-2</b>	1	1	1	1	1	1
<b>MFR</b>	2	2	2	2	2	n/a

\* Read from subject zoning district across to the adjacent district. The buffer area and related landscaping shall be located on the subject property according to buffer type.

8. Table 12.1.b. shows landscaping requirements by buffer type:

**Table 12.1.b: Buffer Area Landscaping Requirements**

Buffer Type	Minimum Width (ft.)	Minimum Requirements	Intensity
1	25	2 canopy trees, <i>plus</i> 1 evergreen tree or 1 ornamental tree, <i>plus</i> 12 shrubs, for each 50 linear feet of buffer area	Most Intense  Least Intense
2	10	1 canopy tree, <i>plus</i> 1 evergreen tree or 1 ornamental tree, <i>plus</i> 8 shrubs, for each 50 linear feet of buffer area	
3	10	1 canopy tree or 1 evergreen tree <i>plus</i> 1 ornamental tree or 12 shrubs, for each 50 linear feet of buffer area	

9. Buffer Area Alternatives.
  - a. Plants may be arranged either formally, or informally for a more random, natural effect.
  - b. Berms may be constructed in a buffer area to supplement landscaping. Minimum landscaping requirements shall be reduced by 50 percent where a berm at least three feet tall is constructed for at least 85 percent of the length of the buffer area.
  - c. A screen wall or fence, located within a buffer area, may be used to supplement landscaping.

- (1) A screen wall or fence shall be six feet tall and constructed of architectural block, brick, wood or textured concrete.
- (2) A screen wall or fence shall be located at least 5 feet from a property line.
- (3) To maximize the effectiveness of screening, openings shall not exceed 20 percent of the surface of a wall or fence.
- (4) When a screen wall or fence has both a finished and unfinished side, the finished side shall face either outward from the development site, or to the side most visible to the general public, as determined by the Planning Commission.
- (5) Landscaping requirements may be reduced by 75 percent when a screen wall is constructed in a buffer area.

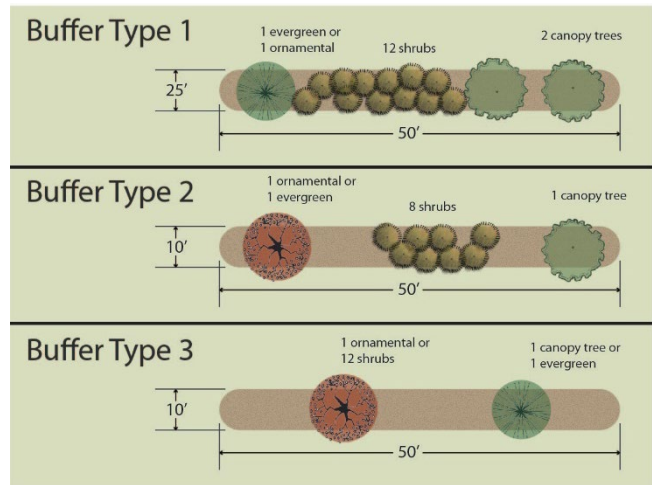


Figure 12-1: Buffer Types

**J. Minimum plant requirements.**

1. The minimum plant size at the time of installation shall comply with Table 12.1.c:

**Table 12.1.c: Minimum Plant Size at Installation**

Plant Material	Minimum Caliper Size	Minimum Height	Minimum Spread
Canopy Tree	2.5"		
Ornamental Tree	1-3/4"		
Evergreen Tree		6'	
Shrubs			24"

2. Existing healthy and desirable trees to be preserved may satisfy the landscaping regulations of this section, as shown in Table 12.1.d. Each credit may be applied toward fulfilling the requirements set forth in this section (i.e., 1 credit equates to 1 equivalent tree).

**Table 12.1.d: Credit for Existing Landscaping**

Plant Material	Minimum Caliper Size	Minimum Height	Minimum Spread
Canopy Tree	4 to 8 inches		1
	>8 inches		2
Ornamental Tree		6 to 10 feet	1
		>10 feet	2
Evergreen Tree		6 to 12 feet	1
		>12 feet	2

**K. Front yard landscaping requirements in non-residential districts and for non-residential uses in residential districts**

1. For all uses in the B-2, B-3, O-S, D-1 and D-2 districts and for any permitted non-residential use in an agricultural and residential district, for every one hundred feet of lot frontage, as measured along a public right-of-way, the following front yard landscaping requirements apply:
  - a. Three canopy trees and one evergreen or two ornamental trees shall be provided.
  - b. The Planning Commission may allow landscaping anywhere within the front yard, except where a parking area is located along the lot frontage. In such instances landscaping shall be placed between the parking lot and public right-of-way.
2. Berms may be constructed in a front yard to supplement landscaping and enhance buffering. Minimum front yard landscaping requirements shall be reduced by 50 percent where a berm, at least three feet tall, is constructed between a parking lot located along a street frontage and the public right-of-way. A berm may also be used to meet the screening requirement for parking lots as required in *Section 12.1.O*.

**L. Side and rear yard landscaping requirements for non-residential uses in residential districts.** For any permitted non-residential use in an agricultural or residential district the Buffer Type 2 requirements, as described in Table 12.1.b, shall apply to all side and rear property lines.

**M. Outdoor storage areas**

Where permitted, outdoor storage areas shall be completely screened from abutting streets and residential zoning districts by buildings, structures, walls, fences, a continuous landscaped buffer or a combination of these methods, determined by the planning commission to be sufficient to effectively screen the storage area.

**N. Parking lot landscaping**

1. A parking lot, except one serving a one or two family dwelling, that abuts or faces a public right-of-way, or is adjacent to a residential district shall comply with the following:
  - a. Shall be screened from view along the right-of-way and residential property line by a continuous 2-1/2 to 3 foot tall screen.
  - b. The screen shall consist of landscaping, berms, a screen wall or any combination of these elements.
2. To provide shade and to break up the visual appearance of large paved areas, parking lots with more than 12 spaces shall be landscaped, based on the following requirements:
  - a. One canopy tree for every twelve parking spaces shall be provided within a parking lot island or peninsula.
  - b. Parking lot islands and peninsulas:
    - (1) All islands and peninsulas shall be protected by raised curbs; dub-downs are permitted to facilitate drainage.
    - (2) An island or peninsula shall be at least nine feet wide.
    - (3) Islands or peninsulas may be combined or clustered for greater visual effect.
    - (4) Trees shall be planted at least three feet from the edge of the curb or pavement.

- (5) Landscaping shall not obscure traffic signs, fire hydrants or sight distance within the parking lot and at driveway entrances, in accordance with *Section 3.3.I*.
- (6) A system of irrigation shall be provided, unless the island or peninsula is specifically designed as a rain garden.

#### **O. Screening**

1. Screening shall be required in the following circumstances, except as may be provided elsewhere in this section:
  - a. Around all trash dumpsters in all Districts.
  - b. Around a staging or loading/unloading area.
2. Solid waste dumpsters may be located in buffers as required by this section, provided they are screened in accordance with this subsection. The Planning Commission may require additional landscaping around the enclosure, depending upon its location within a buffer and its visibility from adjacent rights-of-way and properties. Staging, or loading/unloading areas shall not be located within a required buffer.
3. Screening shall be required, even if the surrounding area or adjacent properties are not developed.
4. When a property changes to a more intense land use or a special land use or when site plan approval is required, screening shall be provided in accordance with this Chapter.
5. Screening Requirements
  - a. Unless otherwise permitted in accordance with this section, a screen shall consist of a solid, sight-obscuring fence or wall that meets the following specifications:
    - (1) Be six feet tall.
    - (2) Enclosed on all sides and not contain any openings, other than an access gate, which shall be closed at all times when not being used. A screen around a staging or loading/unloading area may provide an opening that does not contain an access gate.
    - (3) Constructed of masonry, treated wood or other material approved by the Planning Commission and must be durable, weather resistant, rust proof and easily maintained.
    - (4) A trash dumpster enclosure and gates shall be protected by bollards or other means to prevent vehicle damage.
  - b. If approved by the Planning Commission, a screen may consist of berms or landscaping either in combination, or as a substitute for a fence or wall. It must be determined that the alternate design shall either provide the same degree, or enhanced screening as required by this section.

#### **P. Landscape site plan requirements**

1. Proposed landscaping shall be shown on a separate drawing at the same scale as the site plan. Landscape plans for properties greater than one acre shall be prepared by a landscape architect licensed in the State of Michigan. To ensure that landscaping is not affected by, nor interferes with utilities, the plan shall indicate any existing or proposed utilities and easements.
2. Planting plans shall show all landscaped areas and plants listed in a table by common and scientific name and show quantities, size at planting and anticipated mature height and spread.

Anticipated mature height and spread shall be shown with circles indicating anticipated plant size at maturity.

3. Text shall accompany the landscape plan, providing calculations for the proposed landscaping and describing how the plan successfully complies with the regulations of this section.
4. Existing natural and man-made landscape features and proposed buildings and structures, as required for the overall site plan, shall be clearly indicated
5. Contours shall be shown at intervals no greater than two feet.
6. All other site development plan review standards, as set forth in *Chapter 11* of this Ordinance, shall be followed.

**Q. Treatment of existing plant material.** The following regulations shall apply to existing plants:

1. Preservation of existing plant material. Site plans shall show all existing trees (four inch caliper or greater) located in portions of the site that will be built upon or otherwise altered. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan.
2. Destruction or removal of healthy trees. In the event healthy plants, which are intended to meet the requirements of this section, are cut down, damaged or destroyed during construction, they shall be replaced. The Planning Commission may determine that replacement shall be at a greater rate than one new tree per each destroyed or damaged tree, when a destroyed or damaged tree is of a caliper or species that is of greater size or value than a single new tree.

## **Section 12.2 Exterior Lighting Requirements**

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The following lighting requirements shall apply to all uses requiring site plan review, as stated in *Chapter 11*.

**A. Exemptions.** The following lighting applications are exempt from regulation under this section:

1. Lighting for all agricultural and single and two-family residential uses, provided that the level of illumination at any property line adjoining an agricultural and residential use shall not exceed 0.1 foot-candles.
2. Pedestrian walkway lighting.
3. Emergency lighting, provided that the lights are designed to operate only under emergency or loss of power situations.
4. Holiday decorations.
5. Window displays.
6. Lighting for temporary events, such as fairs, carnivals and similar temporary outdoor uses.
7. Ornamental lighting that is incorporated into an architectural design, such as, lighting of water features, outdoor art and other building elements (other than signs), provided that the light source is shielded to direct light onto the lighted element.

### **B. Prohibited lighting**

The following lighting types and methods are prohibited:

1. High intensity lights. Laser lights, search lights or any similar high intensity light for outdoor advertisement or entertainment.

2. Hazardous lights. Any lighting where the light source creates glare and is a hazard to travelers on an adjacent street.
3. Exposed bulb light. The use of any exposed bulbs, visible from any property line unless exempt under Subsection A, above, or as part of a sign that meets the requirements of *Section 12.4*.
4. Flashing and moving lights. Lighting that flashes, moves, or is intermittent, excluding those associated with signs meeting the requirements of *Section 12.4*.
5. Traffic control or emergency lights. Lighting that is similar to that used for traffic control devices or emergency vehicles.
6. Floodlights. Permanent floodlights to illuminate parking lots, gas stations, outdoor sales areas, sidewalks, and outdoor storage areas.

**C. Shielding and glare**

1. All outdoor lighting shall be placed so it does not create a nuisance for motorists or adjacent uses or dwellings and shall be shielded to reduce glare.
2. All outdoor lighting, except ground lights that illuminate governmental flags, shall be directed down or onto the object being illuminated. Flag lighting shall only illuminate the flag and shall be placed so lighting or glare is not directed toward streets or adjacent properties.

**D. General requirements**

1. Lighting shall be provided throughout any non-residential parking lot. Lights to illuminate parking lots shall not be attached to any building, except for illuminating parking spaces that are within 10 feet of building walls.
2. Lighting shall be required by the Planning Commission for any roads being constructed as part of or in advance of any new development. Street lighting shall meet the requirements of the Kent County Road Commission.

**E. Specific requirements**

1. Under-canopy lighting.
  - a. Canopy lighting shall be mounted flush with the canopy surface.
  - b. No light fixture shall protrude below the underside (fascia) of any canopy.
2. Pole and wall-mounted fixtures.
  - a. Lighting fixtures shall be a down-lighted type and full cut off, and shall not allow light to be emitted above the fixture. Fixtures shall comply with the following requirements:
    - (1) A full cut off fixture shall have no direct up-light and shall reduce glare by limiting the light output to less than 10 percent at and below 10 degrees below the horizontal.
    - (2) If the applicant cannot provide manufacturer confirmation of full cut off characteristics of light fixtures, the fixture shall be fully shielded, which will be determined by visual inspection of the fixture or a specification sheet. Fully shielded light fixtures are constructed and installed in such a manner that all light emitted by it, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal.

- b. Protruding lenses shall be prohibited; provided, the Planning Commission may permit decorative fixtures in which the light source is visible but will not exceed the maximum lighting levels permitted or cause glare. However, this does not apply to fixtures intended to illuminate parking lots, gas stations, outdoor sales areas, and outdoor storage areas.
  - c. Unless otherwise approved by the Planning Commission and Township Board, light sources for area illumination (such as parking lots and outdoor storage areas) shall be high pressure sodium, metal halide, or light emitting diodes (LED). Lighting color temperature shall not exceed 4,000 Kelvins.
  - d. Light fixtures shall have a maximum height of 20 feet when in or adjacent to a residential district. All other light fixtures shall have a maximum height of 25 feet.
  - e. The height of a fixture shall be measured from the parking lot grade to the nearest portion of the light source. No portion of the fixture may extend more than one additional foot higher than the maximum heights listed above.
3. Signs. Lighting of signs shall be subject to the requirements of *Section 12.4.D.3*.
  4. Illumination levels. Light levels on a site that is subject to site plan approval under this ordinance shall meet the requirements in Table 12.2 for the developed portion of the site containing buildings, drives and parking lots. The Planning Commission may modify the requirements in Table 12.2 based on review against the applicant's proposal, evolving industry standards, and advanced lighting technology, so long as lighting plans ensure safe conditions and minimize impact to adjacent properties.

**Table 12.2: Required Site Illumination**

Location on Site	Minimum Footcandles <sup>(1)</sup>	Maximum Footcandles	Average Footcandles	Uniformity Ratio Max. to Min./ Ave. to Min.
Parking Lots, Loading Areas, Sidewalks & Building Entrances	.5 fc	10 fc <sup>(2)</sup>	1 fc	10:1 / 4:1
Under Canopies Such as Gas Stations, Drive-Thru Bank Porte-Cochere	3 fc	20 fc	-	-
Along Front Lot Line Adjacent to the Street Frontage	0 fc	3 fc <sup>(3)</sup>	-	-
Along a Lot line Adjoining a Non-Residential Use or District	0 fc	1 fc <sup>(4)</sup>	-	-
Along a Lot line Adjoining a Residential Use or District	0 fc	0.5 fc	-	-

**Notes to Table 12.2:**

- (1) The minimum illumination levels shall not apply to portions of the site that are fenced to restrict public access, such as storage yards.
- (2) For automobile dealerships and other types of approved outdoor sales areas the maximum illumination may be increased to 15 foot-candles, provided the limits at the lot line are not exceeded.
- (3) Shall not apply to ornamental street lighting, public street lights or driveway/intersection lighting necessary for pedestrian and traffic safety.
- (4) The light level along a non-residential lot line may be increased to five foot-candles where there is shared access/vehicular connections or the adjacent use is a similar use.

## F. Lighting plans

1. Submittal Requirements. Compliance with the lighting design criteria shall be demonstrated by submitting the following information for as part of the required site plan:
  - a. Lighting plan (as part of the site plan package) showing light fixture locations and type designations.
  - b. Fixture mounting height(s).
  - c. Type and number of lighting fixtures.
  - d. Lamp source type (bulb type, i.e. high-pressure sodium, LED, etc.), lumen output, color temperature, and wattage.
  - e. Lighting manufacturer-supplied specifications (cut sheets) that include photographs or illustrations of the fixture(s), indicating the certified full cut off characteristics of the fixture or demonstration that the fixture is fully shielded.
2. Photometric plans. A photometric plan is required for all parking and outdoor storage areas. The Zoning Administrator or Planning Commission may require a photometric plan for other areas illuminated on a site to ensure that the intent and requirements of this Section are met. Photometric plans shall include the following:
  - a. Maximum illuminance levels should be expressed in ground-level foot-candle measurements on a grid of the site showing foot-candle readings in every five or ten-foot square.
  - b. The grid shall include light contributions from all sources (i.e. pole mounted, wall mounted, sign, and street lights.)
  - c. Footcandles measurements shall be shown five feet beyond the property lines.
  - d. A calculation summary indicating foot-candle levels on the lighting plan, noting the maximum, average, and minimum, as well as the uniformity ratio of maximum to minimum, and average to minimum levels. Average and uniformity ratios shall only be calculated within the parking spaces and drive aisles, and shall exclude other illuminated areas of the site.

## Section 12.3 Parking and Loading Requirements

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In all districts at the time of erection or enlargement of any main building or structure, vehicle off-street parking spaces shall be provided with adequate access to all spaces. The number of required off-street parking spaces shall be provided prior to the issuance of a certificate of occupancy.



## A. Off-Street Parking General Requirements

1. Location of off-street parking. Off-street parking lots shall be subject to the locational and setback requirements indicated in Table 12-3A.

<b>Minimum Setback</b>		<b>R-A, R-R, R-S, R-U</b>	<b>B-1</b>	<b>B-2, O-S</b>	<b>D-1</b>
Front		15 feet	10 feet	15 feet	15 Feet
Side	abutting Commercial or Industrial zoned property	5 feet	--	5 feet	5 feet
	abutting Agricultural or Residential zoned property	10 feet	10 feet	15 feet	25 feet
Rear	abutting Commercial or Industrial zoned property	5 feet	--	5 feet	5 feet
	abutting Agricultural or Residential zoned property	10 feet	10 feet	15 feet	25 feet

2. Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.
3. Residential off-street parking shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises being served, except for shared parking as allowed by this subsection.
4. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere, or a change in use requires fewer parking spaces.
5. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than required for a similar new building or new use.
6. The storage of merchandise, motor vehicles for sale, trucks, or repair of vehicles is prohibited within or on any off-street parking area, except those accessory to an approved vehicle sales facility.
7. Shared parking.
  - a. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately, unless otherwise approved by the Planning Commission.
  - b. The Planning Commission may reduce the parking requirements based upon a finding that there will be a lower demand for parking due to shared parking by multiple uses, where there will be a high proportion of multipurpose visits, or uses have peak parking demands during differing times of the day or days of the week.
  - c. If shared parking is approved, pedestrian and vehicular connections shall be maintained between the lots and shared parking agreements shall be filed with the County Register of

Deeds and the Township. A shared parking agreement shall only be in force so long as the parking demand of any use that utilizes the shared parking lot does not increase beyond those in existence at the time the agreement was recorded.

8. Deferred parking.
  - a. Where an applicant demonstrates the parking requirements for a proposed use would be excessive, the Planning Commission may defer some of the parking, provided the site plan designates portions of the site for future construction of the required parking spaces.
  - b. Areas reserved for future parking shall be maintained in a landscaped appearance and not used for building area, storage, or other accessory use.
  - c. The deferred parking shall be required to meet Ordinance requirements if constructed and may not occupy required greenbelts.
  - d. Construction of the deferred parking area to add parking spaces may be initiated by the owner or required by the Township, based on parking needs or observation, and shall require administrative approval of an amended site plan.
  - e. A performance guarantee, meeting the requirements of *Section 14.6*, for the cost of constructing the deferred parking shall be provided prior to issuance of a building permit. The performance guarantee shall be refunded at such time the additional parking is constructed or five years following issuance of a certificate of occupancy, whichever occurs first.

9. B-1, Central Business District Parking. The minimum off-street parking space requirements for any non-residential use in the B-1, Central Business District, shall be reduced by twenty (20) percent from the requirements of Table 12.3. These requirements may be further reduced by the planning commission in conformance with the provisions of *Section 12.3.A.8*.

**B. Modification of Parking Requirements.** The planning commission may reduce the parking space requirements of this section for any use, based upon one or more of the following conditions:

1. Shared parking by multiple uses where there will be a high proportion of multipurpose visits or uses have peak parking demands during differing times of the day or days of the week and meeting the following requirements:
  - a. Pedestrian connections shall be maintained between the uses.
  - b. For separate lots, shared parking areas shall be adjacent to each other, with pedestrian and vehicular connections maintained between the lots.
  - c. Unless the multiple uses are all within a unified business center, office park or industrial park all under the same ownership, shared parking agreements shall be filed with the village clerk after approval by the planning commission.
2. Convenient municipal off-street parking or on-street spaces are located adjacent to the subject property.
3. Expectation of walk-in trade is reasonable due to sidewalk connections to adjacent residential neighborhoods or employment centers. To allow for a parking space reduction, the site design shall incorporate pedestrian connections to the site and on-site pedestrian circulation, providing safe and convenient access to the building entrance.

4. Other forms of travel, such as bicycles, are available. In allowing a parking space reduction, the planning commission may require that the site design incorporate bicycle parking facilities and pedestrian connections.
  5. Where the applicant has provided a parking study, conducted by a qualified traffic engineer, demonstrating that another standard would be more appropriate based on actual number of employees, expected level of customer traffic, or actual counts at a similar establishment.
  6. The planning commission may require a parking study to document that any one or more of the criteria (1) through (4) above would be met.
- C. **Uses not listed.** For those uses not specifically listed, the requirements for off-street parking facilities shall be in accord with a listed use which the zoning administrator considers is most similar in type. Alternatively, the zoning administrator may require that the applicant provide studies of the potential parking demand and may use that information as the basis of determining minimum parking requirements.
- D. **Required off-street parking spaces**
1. Fractions. When units or measurements determining the number of required parking spaces result in a fractional space, a number of .5 or greater shall be rounded up to the nearest whole.
  2. Floor Area. For the purpose of computing the number of parking spaces required, the definitions of “gross floor area” (GFA) and “useable floor area” (UFA) shall govern.
  3. Maximum parking. In order to minimize excessive areas of pavement which reduce aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking space requirements by more than 10 percent shall require approval by the Planning Commission. In making its decision, the Planning Commission shall determine that the added parking is necessary to accommodate typical daily needs, based on documented evidence.
  4. Minimum requirements. The minimum number of off-street parking spaces by type of use shall be determined in accordance with Table 12-3.D.

**Table 12-3D: Minimum Number of Parking Spaces**

UFA: Usable Floor Area; GFA: Gross Floor Area	
Use	Min. Number of Parking Spaces
<b>Residential</b>	
Adult foster care small group homes and group day care homes	Two plus one for each caregiver, in addition to the requirement for the resident family
Bed and breakfasts	Two for the owner/operator and one for each leasable room
Boarding houses	Two, plus one for each bed or sleeping room
Housing for the elderly (independent and assisted living)	One for each two units and one for each employee. Should units revert to general occupancy, the requirement for multiple family dwellings shall be met
Multiple-family dwellings	Two for each dwelling unit, plus one guest parking space for each 4 dwelling units
Single-family detached and two-family dwellings	Two for each dwelling unit
<b>Institutional</b>	
Convalescent and nursing homes	One for each two employees plus one for each four persons in residence
Elementary and junior high schools	One for each one teacher, employee, or administrator in addition to the requirements for auditorium or stadium, where applicable

**Table 12-3D: Minimum Number of Parking Spaces**

UFA: Usable Floor Area; GFA: Gross Floor Area	
Use	Min. Number of Parking Spaces
Hospitals	One per each two beds, plus one per employee (including doctors employed off-site)
Library, museum, or post office	One for each 800 square feet UFA, plus one for each 2 employees
Places of worship	One for each three seats or six feet of pews in the main unit of worship
Senior high schools, colleges, universities, and commercial trade schools	One for each one teacher, employee, or administrator, and one for each ten students, in addition to the requirements for auditorium or stadium, whichever seats more, where applicable
<b>Offices</b>	
Financial institutions	One for each 200 square feet UFA, plus three for each walkup ATM. Drive-up windows shall be provided four stacking spaces for each window
Professional offices, except medical and dental offices and clinics	One for each 300 square feet of UFA
Medical and dental offices and clinics, or similar professions and veterinary hospitals and clinics	One for each 200 square feet of UFA
<b>Retail Uses</b>	
Agribusiness	One for each 300 square feet of UFA. A minimum of five customer parking spaces shall be provided for all uses of 1,000 square feet or less
Farm markets	One for each 200 square feet UFA for indoor sales and display. For outdoor sales and display, one for each 1,000 square feet of land area
Farm wineries	One for each 300 square feet of UFA dedicated to retail sales, wine tasting and other indoor activities. A minimum of five customer parking spaces shall be provided for all uses of 1,000 square feet or less
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses	One for each 800 square feet of UFA. (for that floor area used in processing assembly or repair, one additional space shall be provided for each two persons employed therein.)
Grocery store/supermarket	One space per 200 square feet UFA
Outdoor commercial display & sales	One for each 500 square feet of outdoor land area being used for display
Retail stores, except as otherwise specified herein	One for each 250 square feet of UFA
Roadside stands	Four spaces, situated for ingress/egress without maneuvering on the street
Shopping centers with multiple tenants	One for each 300 square feet of UFA. Non-retail uses such as restaurants, places of worship, bars and theaters shall be calculated separately based upon their respective requirements
Vehicle sales	One for each 400 square feet of UFA of sales room and one for each auto service stall in the service department
<b>Restaurants/Food and Beverage</b>	
Restaurant, carry-out (with no eating on premises)	Six per service or counter station, plus one for each employee

**Table 12-3D: Minimum Number of Parking Spaces**

<b>UFA: Usable Floor Area; GFA: Gross Floor Area</b>	
<b>Use</b>	<b>Min. Number of Parking Spaces</b>
Restaurant with drive through facilities	One for each employee, one for each 85 square feet of UFA in the dining area and seven stacking spaces for each drive-through window or station
Restaurant without drive through facilities	One for each 100 square feet of UFA or one for each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater
Taverns, bars, lounges, nightclubs (majority of sales consist of alcoholic beverages)	One per each 75 square feet of UFA or one (1) per two seats, whichever is greater
<b>Service Uses</b>	
Vehicle service stations	One at each pump station, plus one for each employee, plus one for each 100 square feet of UFA used for cashier, office, or retail sale of food, beverages and other products. In no instance shall the facility provide fewer than three spaces for cashier's and office use
Vehicle service and repair	Two for each service stall, plus one for each employee
Vehicle wash establishment	One for each one employee, plus three stacking spaces per manual wash bay, 10 stacking spaces per automatic wash bay and one stacking space per vacuum
Beauty parlor or barber shop	Two spaces for each of the first two beauty or barber chairs, and one and one-half spaces for each additional chair
Dry cleaners	One per 500 square feet of UFA
Kennel, commercial	One for each employee, plus an additional five for visitors
Laundromats and coin-operated dry cleaners	One for each two washing and/or dry-cleaning machines
Funeral homes and mortuaries	One for each 50 square feet of UFA in assembly rooms, parlors and slumber rooms
Hotels and motels	One for each one occupancy unit plus one for each employee plus spaces as required for accessory uses such as a bar, restaurant, meeting rooms, etc.
Mini-warehouse/self-storage facilities	One for each 20 storage units plus two for manager's residence (if provided)
Video rental establishments	One per 250 square feet of UFA
<b>Recreation Uses</b>	
Bowling alleys	Five for each one bowling lane plus spaces required for accessory uses such as a bar or restaurant
Campgrounds	Two per each camp site, plus two per each 500 square feet of UFA for accessory office and retail uses that serve the camp
Clubs, private noncommercial	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes
Outdoor recreational facilities	Two for each batting cage, archery range or similar activity; 14 per athletic field
Dancehalls, pool or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	One for each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes or one for each 200 square feet of UFA, whichever is greater
Golf courses, open to the general public, except miniature golf	Six for each one golf hole and one for each one employee, plus spaces required for each accessory use such as a restaurant or bar

**Table 12-3D: Minimum Number of Parking Spaces**

UFA: Usable Floor Area; GFA: Gross Floor Area	
Use	Min. Number of Parking Spaces
Golf driving range	Two for each driving tee plus three spaces for employees
Ice skating or roller rink	One for each seat or six feet of benches, or one for each 150 square feet of skating area, whichever is the greater
Indoor recreational facilities and health clubs	One per each 500 square feet of GFA, plus one per employee, except a billiard hall shall provide one per each 100 square feet of UFA; a bowling alley shall provide one per each 275 square feet UFA
Miniature golf courses	Two for each one hole plus one for each one employee
Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One for each four member families or individuals plus spaces required for each accessory use such as a restaurant or bar
Stadium, athletic arena, or similar large sports facilities	One for each three seats or six feet of benches
Tennis club, paddle-ball club, racquetball club and other similar uses	Six per court, plus such additional spaces as may be required herein for affiliated uses such as restaurants, plus one per employee
Theaters and auditoriums	One for each three seats plus one for each two employees
<b>Industrial</b>	
Industrial or research establishments and related accessory offices	Five plus one for every 1.5 employees in the largest working shift or one for each 500 square feet of UFA in those instances where shift size is not known. Space on the site shall also be provided for all construction workers during periods of plant construction
Warehousing and wholesale establishments and related accessory offices	Five plus one for every one employee in the largest working shift, or five plus one for every 1,700 square feet of UFA, whichever is greater

E. **Off-street parking space layout, requirements, construction, and maintenance.** Off-street parking facilities required by this Ordinance shall be laid out, constructed and maintained in accordance with the following:

1. Zoning compliance. No parking lot shall be constructed until zoning compliance has been determined by the zoning administrator and a building permit has been issued by the Building Inspector.
2. Layout. The layout of off-street parking facilities shall meet the minimum requirements in Table 12.3E.

**Table 12.3E Off-Street Dimensional Parking Requirements**

Parking Pattern	Parking Space		Maneuvering Lane Width	
	Width	Length	One-Way	Two-Way
0° (Parallel)	8.5 ft.	22 ft.	12 ft.	22 ft.
30° to 53°	9 ft.	18 ft.	13 ft.	22 ft.
54° to 74°	9 ft.	18 ft.	16 ft.	22 ft.
75° to 90°	9 ft.	18 ft.	24 ft.	24 ft.

3. Access.
    - a. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street is prohibited.
    - b. Adequate ingress and egress to the parking lot shall be provided for all vehicles by means of clearly defined drives. Ingress and egress to a parking lot serving any non-residential, two-family or multiple family use shall not cross land zoned RS or RU.
    - c. Ingress and egress drives for all off-street parking lots shall be at least 25 feet from any property line in a RS or RU district.
  4. Landscaping. Parking lots shall be landscaped according to the requirements of *Section 12.1*.
  5. Parking lot surface. The entire parking area, including parking spaces and maneuvering lanes, shall be paved with asphalt or concrete surfacing in accordance with specifications approved by the Township Board. However, it is the intent of this Ordinance to minimize the amount of impermeable paved surface; therefore the Planning Commission may approve alternative paving materials, such as permeable/grass pavers, based upon the review and recommendation of the Township engineer. The parking area shall be surfaced prior to the issuance of a certificate of occupancy, or, in case of seasonal difficulties, a performance guarantee shall be provided in accordance with *Section 14.6*.
  6. Drainage. Off-street parking areas shall be drained to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. All plans shall be approved by the Township engineer.
  7. Lighting. All off-street parking lighting shall be installed to confine the illumination to the parking area and prevent glare and light spill onto adjoining properties. The requirements of *Section 12.2* shall also be met.
- F. **Off-street loading and unloading.** On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles, materials or merchandise, adequate space for dedicated loading and unloading shall be provided and maintained. The loading and unloading space shall be provided as follows

1. Loading areas shall be provided in the ratio of spaces to floor area found in *Table 12-3F*.

**Table 12-3F: Loading Area Dimensional Requirements**

Gross Floor Area	Loading and Unloading Spaces Required
Less than 1,400 sq. ft.	None
1,401 to 20,000 sq. ft.	One space
20,001 to 100,000 sq. ft.	One space plus one space for each 20,000 sq. ft. in excess of 20,001 sq. ft.
100,001 sq. ft. or more	Five spaces

2. All spaces shall be laid out in the dimension of at least 10 feet wide by 50 feet deep, or 500 square feet in area, with clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or Portland cement binder to provide a permanent, durable and dustless surface.
3. The Township may modify the required size of loading spaces for uses, such as offices, that will involve smaller delivery trucks.

## Section 12.4 Signs

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A. **Intent.** The regulation of signs is intended to protect and further the health, safety and welfare of the general public; maintain and improve the Township's appearance; preserve community character; minimize traffic hazards; provide safer conditions for pedestrians and promote economic development. This is achieved by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. These regulations further provide reasonable identification for businesses and other uses within the community.

B. **Sign definitions.**

1. Awning sign: A sign affixed flat against the surface of an awning.
2. Balloon sign: A sign composed of a non-porous structure filled with gas or supported by air.
3. Billboard: An outdoor sign advertising services or products, activities, persons or events which are not made, produced, assembled, stored, distributed, leased, sold or conducted on the premises upon which the sign is located. A billboard includes a billboard structure.
4. Billboard Sign Face: A static, trivision or digital sign panel, displaying words and/or images for advertising purposes, that is attached to a billboard structure.
5. Billboard Sign Extension: An additional display-component of a billboard sign face that is installed only on a temporary basis, on a part of the billboard structure that extends in one or more directions from the billboard sign face.
6. Billboard Structure: The pylon(s), pole(s), foundation, framework, supporting members, skirting, lighting and other electrical equipment and all other components and things used to mount, support or operate a billboard sign face, whether or not a billboard sign face is present on the billboard structure at any given time.
7. Business center sign: A freestanding sign identifying the name of a business center and/or one or more individual businesses, offices and other permitted business uses within the center.
8. Changeable message sign: An integral portion of a sign on which a message is displayed which can be changed, either electronically or manually. A portable sign or the changeable copy portion of a portable sign that is attached to or made a part of a permanent sign is not considered a changeable message sign.
9. Construction sign: A sign that identifies the owners, financiers, contractors, architects or engineers of a project under construction.
10. Commercial event sign: A temporary sign advertising a commercial event, such as a grand opening, special sale or similar event on a commercial property.
11. Directional sign: A sign which gives directions, instructions or facility information for a use on the property on which the sign is located, such as parking and exit and entrance signs.
12. Electronic display: A sign or portion of a sign with a fixed or changing display/message composed of a series of lights that may be changed by electronic means.
13. Freestanding sign: A ground sign or pylon sign, not including a billboard, structurally separated from a building, supported by one or more posts or braces or attached directly to the ground.
14. Gateway sign: A freestanding sign identifying the name of a residential or commercial development or industrial park, but not including the name of individual properties or land uses within the development or park.



15. Garage or estate sale sign: A temporary sign erected to advertise the resale of personal property belonging to the resident. This definition includes signs for garage sales, estate sales, rummage sales, yard sales or any similar casual sale of personal property.
16. Government sign: A temporary or permanent sign erected by Byron Township, Kent County, or the state or federal governments.
17. Ground sign: A freestanding sign that either rests directly on the ground, on a low support wall or on short posts.
18. Marquee sign: A sign affixed flat against the surface of a marquee.
19. Mural: A design or image painted or drawn on a wall, which does not identify an establishment, product, service, or activity.
20. Occupant frontage: The width of a building or a tenant space within a multi-tenant building, measured on the side oriented toward the street, parking lot or an access drive.
21. Off-premise sign: A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment use not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
22. On-premise sign: Any sign that pertains solely to the use of the property on which it is located, or to an establishment, product, merchandise, good, service or entertainment use which is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
23. Placard: A sign not exceeding two square feet which provides notices of a public nature, such as “No Trespassing” or “No Hunting”.
24. Political sign: A temporary sign used in connection with a noncommercial message or an official Byron Township, school district, county, state, or federal election or referendum.
25. Portable sign: A sign not permanently attached to the ground or other permanent structure that is designed to be transported. This includes, but is not limited to signs designed to be transported by means of wheels or signs mounted on A-frames or T-frames.
26. Projecting sign: A double-faced sign attached to a building or wall that extends perpendicular more than 12 inches, but not more than 36 inches, from the face of the building or wall.
27. Property development sign: A sign advertising a new subdivision, development or enterprise, which advertises lots for sale, buildings for sale or lease, etc.
28. Pylon sign: A freestanding sign, not including a billboard, supported on a tall post or pylon.
29. Real estate sign: A sign advertising the real estate upon which the sign is located as being for sale, rent or lease.
30. Roof sign: A sign erected upon a roof. A sign erected upon a mansard roof or other roof with a pitch greater than 12:12 shall be considered to be a wall sign.

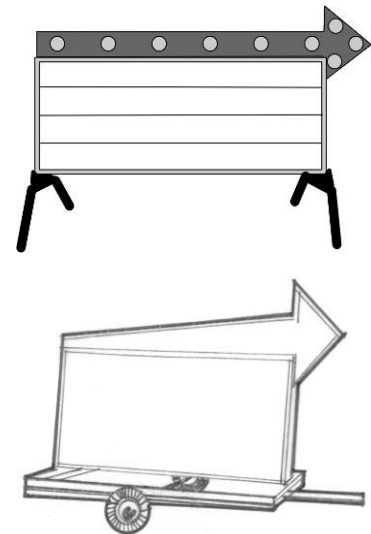


Figure 12-2: Portable sign examples

- 31. Sandwich board: A sandwich board is a self-supporting freestanding temporary sign with two faces hinged at the top, with no moving parts or lights, displayed outside a business, during business hours, to advertise the business, hours of operation, an event, a promotion, etc., (excluding real estate signage).
- 32. Sign: A device, structure, fixture or placard with graphics, symbols and/or text that advertises or identifies an establishment, product, service or activity.
- 33. Special event sign: A temporary sign containing information about a special event sponsored by a governmental agency or non-profit organization.
- 34. Temporary sign: A sign, flag, banner, balloon, figure, pennant or valance, usually constructed of cloth, canvas, light fabric, plastic, cardboard, wallboard or other light materials, with or without frames, or any other sign, other than a portable sign, that is not permanently secured and is not intended or designed for permanent use.
- 35. Trivision Billboard: A billboard that has a sign face composed of a series of vertical or horizontal cylinders, each of which has a triangular cross section. A rotation of the triangular cylinders produces the display of a different image.
- 36. Vehicle sign: A sign mounted on a vehicle or trailer, designed to be visible to motorists or pedestrians. Its primary purpose is to advertise or identify an establishment, product, service or activity while the sign is being transported. A sign painted on a vehicle identifying the business owning or using the vehicle, or a sign depicting the name of the owner of the vehicle, is not considered a vehicle sign.
- 37. Wall sign: A sign painted on or attached directly to and parallel to the exterior wall of a building, which does not extend more than 12 inches from the exterior face of the wall to which it is attached.
- 38. Window sign: A sign installed inside a window and intended to be viewed from the outside.

C. **Permit required.** A sign shall not be erected, altered, placed or permitted to be placed or replaced without first obtaining a sign permit, except those specifically exempted from permit requirements in *Section 12.4.F*.

D. **General sign provisions.** The following regulations are applicable to all signs in all zoning districts.

1. Sign Structure and Placement.

- a. Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- b. Signs shall not be placed in, upon or over any public right-of-way, alley, or other place, except as may be otherwise permitted by the Kent County Road Commission or Michigan Department of Transportation.
- c. A light pole or other supporting member shall not be used for the placement of any sign, except as may be specifically permitted by this chapter.
- d. A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.

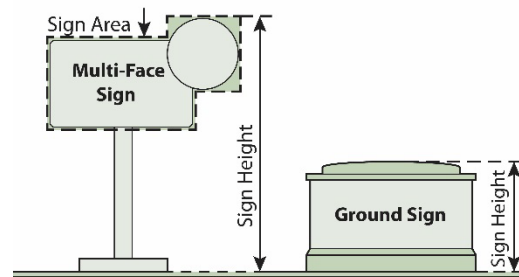


Figure 12-3: Sign measurement

- e. A wall sign shall not extend past the edge of the wall to which it is affixed and no wall sign shall extend above the roof line of a building.
  - f. A sign and its supporting mechanism shall not extend beyond any lot lines of the property on which it is located.
  - g. All signs shall be stationary and shall pertain only to the business or activity conducted on the premises, except for community special event signs and billboards.
  - h. All wall and freestanding signs may include changeable message displays within the maximum size limits permitted for the sign; provided the message is stationary and is not changed more frequently than permitted by the applicable district sign regulations.
  - i. No vehicle which, in the opinion of the zoning administrator, has the intended function of serving as a sign shall be parked in any area abutting the street, unless no other location is available.
2. Measurement of Sign Area. No sign shall exceed the maximum sign area allowed for the district in which it is located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:
- a. Area. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
  - b. Double-faced sign. The area of a freestanding, ground or projecting sign, other than a billboard, that has two or more faces shall be measured by including the area of all sign faces, except if two faces are placed back-to-back and are no more than two feet apart at any point, the area of only one face shall be counted toward the maximum size requirement. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
  - c. Wall sign. For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
  - d. Height. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
  - e. Multi-tenant Buildings. For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.
3. Illumination and Movement.
- a. Unless otherwise provided, signs may be illuminated internally or externally. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property.
  - b. Flashing, moving, oscillating, blinking, or variable intensity light is prohibited.

- c. A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.

**E. Prohibited signs.** The following signs are prohibited in Byron Township:

1. Any sign not specifically permitted.
2. Off-premise signs, except special event signs and billboards, as permitted by this section.
3. Vehicle signs; however, signs attached to a public transit vehicle or other government-owned vehicle shall be exempt from this section.
4. Roof signs.
5. Balloon signs, except when allowed as a commercial event sign.
6. Signs that are held by or supported by a person for commercial advertising purposes.
7. Portable signs, except as allowed under Section 12.4 F

**F. Exempt signs**

1. The following signs shall be exempt from the sign permit requirements of this section; provided, they comply with the all other applicable provisions of this section and of this Ordinance:

**Table 12.4 F: Signs Exempt from Permit**

Type of Sign	Requirements
Address sign	Numeral height no greater than six inches for residences and 18 inches for businesses and other nonresidential uses.
Barber pole	The bottom of the barber pole must be at least 8 feet from the ground or sidewalk and the top must be lower than the height of the building.
Device sign	Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three square feet in area, limit of one sign per vending machine, gas pump or ice container.
Directional sign	The sign shall not exceed four square feet in area and three feet in height; shall be set back from the street right-of-way line and the edge of any driveway at least five feet; and may contain a logo or trademark up to one-third of the sign area, but shall not contain a name or commercial message. Only words such as "enter," "exit," "one way," "do not enter," and similar traffic directions may be displayed.
Employment sign	"Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be six square feet with a maximum height of four feet.
Flag	Flags or insignia of any nation, state, local government, community organization or educational institution.
Garage and estate sale	Garage sale and estate sale signs announcing the sale of household goods, provided the following: there is only one sign per premises; it is located on the premises where the sale will take place, entirely on private property; that it does not exceed six square feet in area; and it is erected no more than three business days before and removed within one business day after the announced sale.
Historic marker	Historical marker including plaques or signs describing a property's designation as a historical site or structure and containing narrative, not exceeding 12 square feet in area.

**Table 12.4 F: Signs Exempt from Permit**

Type of Sign	Requirements
Incidental sign	Incidental signs not exceeding a total of two square feet, a total of two signs per business indicating acceptance of credit cards, the location of restrooms, restrictions on smoking and restrictions on building entrances or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance, or window.
Interior sign	Any sign which is located completely within an enclosed building, and which is not visible from outside the building or which is primarily directed at persons within the premises upon which the sign is located.
Memorial sign	Memorial signs or tablets not exceeding four square feet in area, having the name of the building and/or the date of erection and cut, cast or engraved into a masonry or metal surface and made an integral part of the structure.
Murals	Murals not containing any words, logos, product or service representations are exempt; provided any other mural shall be regulated as a wall sign.
Nameplate	Signs identifying the occupants of the building and/or their professional or home occupation, provided the sign shall not exceed two square feet in area; the sign must be attached to an exterior building wall.
Political sign	Signs shall not be placed in the street right-of-way.
Real estate sign	<p>Only one sign is permitted per lot. However, two signs are permitted on corner lots;</p> <p>The size of each sign may not exceed four square feet and a maximum height of three feet for single family and two family dwellings or 16 square feet and a maximum height of eight feet for all other uses;</p> <p>The sign shall not be affixed to other signs, utility poles, fire hydrants or trees;</p> <p>The sign must be located outside of the public right-of-way; and</p> <p>The sign must be removed within 30 days of the property's sale or lease.</p>
Real estate open house sign	<p>A maximum of two signs may be placed off-premise and one on-premise;</p> <p>The signs shall not exceed four square feet in size and three feet in height above grade;</p> <p>The signs shall not be affixed to other signs, utility poles, fire hydrants or trees;</p> <p>Any person or firm placing the signs shall obtain the written permission from the owner or occupant of all properties on which the signs are placed;</p> <p>The sign shall not be displayed for more than eight hours per day; and</p> <p>The signs must be removed within one hour following closing of open house.</p>
Religious symbols	Religious Symbols incorporated into the architecture on places of worship or structures owned and operated by religious organizations shall not be considered a sign unless accompanied by text.
Scoreboards	Used in conjunction with a legally established sports field; not containing any commercial messages; not exceeding 20 feet in height above the ground; not exceeding 100 square feet in area; and the scoreboard is single sided.
Sign on vehicle	Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked.
Street furniture sign	Signs no larger than one square foot in size on street furniture, such as benches and trash receptacles.

**Table 12.4 F: Signs Exempt from Permit**

Type of Sign	Requirements
Traffic control sign	Traffic or other municipal signs, legal notices, danger signs and such temporary emergency or non-advertising signs, or private traffic control signs which conform to the requirements of the Manual of Uniform Traffic Control Devices and as may be approved by the village.
Warning sign	Publicly authorized warning signs, such as no trespassing, warning of electrical currents or animals, provided the sign does not exceed two square feet in area.
Window sign	The total area of all signs within one foot of the window shall not obscure more than 25 percent of the window area

**G. Nonconforming signs and signs accessory to nonconforming uses**

1. A lawful sign that no longer conforms to the height, size, area or location requirements of this section, as of the date of the adoption of this Ordinance, is hereby deemed to be nonconforming.
2. A nonconforming sign may not be expanded, enlarged or extended; however, the face of a nonconforming sign may be replaced as long as the nonconforming nature of the sign is not expanded or increased. Nonconforming signs may be maintained and repaired.
3. The size or dimension of a sign that is a nonconforming may be reduced and information on the sign may be amended or changed without jeopardizing its nonconforming status. Once reduced it shall not again be expanded. However, if a sign is nonconforming because of setbacks, this paragraph does not apply and the sign shall not be replaced.
4. A nonconforming sign destroyed by fire or other loss shall not be restored or rebuilt if reconstruction constitutes more than 50 percent of the value of the sign on the date of loss.
5. A sign that has advertised a business no longer conducted on the premises or a product no longer sold, for more than three months shall be removed by the owner of the building, structure, or property upon which the sign is located. The sign shall be removed within 30 days of receiving a written notice by the zoning administrator. The zoning administrator may grant one extension, not to exceed six months; provided that the proprietor of the sign can show good reason for the extension.
6. A sign accessory to a nonconforming use may be erected in accordance with the sign regulations for the subject zoning district.

H. **Permitted Signs.** The following signs are permitted in combination, unless noted otherwise, in each district, subject to the requirements described in Table 12.4.H.1, issuance of a sign permit and all other applicable regulations.

Table 12.4 H. Schedule of Permitted Signs by District	
<b>R-A District</b>	
<b>Ground sign for non-residential uses</b>	
Number	One per street frontage
Size	32 square feet
Location	10 feet from front lot line, 50 feet from all other lot lines
Height	Six feet maximum
<b>Wall sign for non-residential uses</b>	
Number	One per street frontage, but only one per wall
Size	15 percent of wall area to which it is attached, not exceeding 64 square feet
Location	Mounted flat against the wall

<b>Table 12.4 H. Schedule of Permitted Signs by District</b>	
<b>Home Occupation Sign</b>	
Number	One per principal dwelling
Size	Four square feet
Location	Wall-mounted on the front of the dwelling
Other	No illumination is permitted
<b>Home-Based Business Sign</b>	
Number	One ground or wall sign per principal dwelling
Size	Eight square feet
Location	Wall-mounted on the front of the dwelling or setback 15 feet from the right-of-way line and 50 feet from other property lines
Height	Ground sign shall not exceed four feet in height
Other	No illumination is permitted
<b>Residential Districts</b>	
<b>Gateway sign</b>	
Number	One per street frontage, but not more than two for each development
Size	48 square feet
Location	15 feet from all lot lines
Height	Six feet maximum
<b>Ground sign for non-residential uses</b>	
Number	One per street frontage
Size	32 square feet
Location	10 feet from front lot line, 50 feet from all other lot lines
Height	Six feet maximum
<b>Wall sign for non-residential uses</b>	
Number	One per street frontage, but only one per wall
Size	15 percent of wall area to which it is attached, not exceeding 64 square feet
Location	Mounted flat against the wall
<b>Home Occupation Sign</b>	
Number	One per principal dwelling
Size	Four square feet
Location	Wall-mounted on the front of the dwelling
Other	No illumination is permitted
<b>Home-Based Business Sign</b>	
Number	One ground or wall sign per principal dwelling
Size	Eight square feet
Location	Wall-mounted on the front of the dwelling or setback 15 feet from the right-of-way line and 50 feet from other property lines
Height	Ground sign shall not exceed four feet in height
Other	No illumination is permitted
<b>O-S, Office Service District</b>	
<b>Gateway sign</b>	
Number	One per street frontage, but not more than two for each development
Size	48 square feet maximum
Location	15 feet from all lot lines
Height	Six feet maximum
<b>Ground sign</b>	
Number	One per street frontage
Size	32 square feet maximum 50 square feet maximum if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, within the highway-fronting yard
Location	10 feet from front lot line, 50 feet from all other lot lines
Height	Six feet maximum

<b>Table 12.4 H. Schedule of Permitted Signs by District</b>	
	Eight feet maximum if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, located within the highway-fronting yard
<b>Pylon sign</b>	
Number	One if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage
Size	120 square feet maximum
Location	Minimum 10 feet from the M-6 or US-131 right-of-way and 25 feet from any other property line. Pylon signs are limited to yards fronting M-6 or US-131.
Height	20 feet maximum, with a minimum ground clearance of eight feet between the ground and the bottom of the sign
Other	A pylon sign may be constructed along the M-6 or US-131 frontage in lieu of a ground sign, but not both
<b>Wall sign</b>	
Number	Two per tenant per wall that faces a parking area or street.
Size	15 percent of wall area to which it is attached, not exceeding 100 square feet per individual wall sign. If the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, total wall sign area on the highway-fronting building elevation shall be limited to 15 percent of the wall area to which they are attached, not exceeding 150 square feet per individual wall sign.
Location	Mounted flat against the wall
<b>Business Districts</b>	
<b>Business center sign (B-2 and B-3 Districts only)</b>	
Number	One per street frontage, but not more than two signs per site; provided that lots with two street frontages shall have a minimum width at each right-of-way line of 75 feet in order to qualify for a second sign. No other freestanding sign shall be permitted on the property for individual businesses.
Size	64 square feet maximum
Location	10 feet from front lot line, 25 feet from all other property lines
Height	Six feet maximum for ground signs or 20 feet maximum for pole sign
<b>Canopy, projecting or awning sign (B-1, Central Business District only)</b>	
Number	One per business
Size	Eight square feet maximum
Location	Projecting out from building wall not more than four feet
Height	A clearance of at least eight feet is required between the sidewalk and the bottom of the sign
<b>Gateway sign (B-2 and B-3 Districts only)</b>	
Number	One per street frontage, but not more than two for each development
Size	48 square feet maximum
Location	15 feet from all lot lines
Height	Six feet maximum
<b>Ground sign (B-1, B-2, B-3 Districts)</b>	
Number	One per street frontage
Size	50 square feet maximum
Location	10 feet from front lot line, 50 feet from all other lot lines
Height	Six feet maximum Eight feet maximum if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, located within the highway-fronting yard
Other	In the B-2 and B-3 districts, a pylon sign may be erected in lieu of a ground sign, but not both
<b>Marquee sign (B-1, Central Business District only)</b>	
Number	One per business
Size	48 square feet maximum



<b>Table 12.4 H. Schedule of Permitted Signs by District</b>	
Location	Projecting out from building wall not more than six feet
Height	A clearance of at least eight feet is required between the sidewalk and the bottom of the sign.
Other	Flashing lights are not permitted
<b>Pylon sign (B-2 and B-3 Districts only)</b>	
Number	One per street frontage, but not more than two signs; provided that lots with two street frontages shall have a minimum width at each right-of-way line of 75 feet in order to qualify for a second sign. No other freestanding sign shall be permitted on the property for individual businesses.
Size	50 square feet maximum. 120 square feet maximum if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, within the highway-fronting yard
Location	Minimum 10 feet from front lot line and 25 feet from any other property line
Height	20 feet maximum, with a minimum ground clearance of eight feet between the ground and the bottom of the sign.
Other	A ground sign may be erected in lieu of a pylon sign, but not both
<b>Sandwich Board (B-1 District only)</b>	
Number	One per business
Size	24 inches wide and a maximum 42 inches high
Location	Nearest part of the sign structure shall not be more than 2 feet from the wall of the building. The sign shall not interfere with or obstruct pedestrian or vehicular traffic; provided, at least 5 feet of passage shall be maintained on the sidewalk between the street and the sign
Other	Sign shall not be anchored to the sidewalk or attached or chained to poles, newspaper vending boxes, or other structures or appurtenances. Windblown devices, including balloons, shall not be attached or otherwise made part of the sign. Signs shall be removed at the end of the business day and <b>only</b> be displayed during regular business hours. Sandwich boards must be weighted down or removed if winds gust to 20 m.p.h. Illumination of any type is prohibited.
<b>Wall sign (B-1, B-2, B-3)</b>	
Number	Two per tenant per wall that faces a parking area or street.
Size	15 percent of wall area to which it is attached, not exceeding 100 square feet per individual wall sign. If the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, total wall sign area on the highway-fronting building elevation shall be limited to 15 percent of the wall area to which they are attached, not exceeding 150 square feet per individual wall sign.
Location	Mounted flat against the wall
<b>Industrial Districts</b>	
<b>Gateway sign</b>	
Number	One per street frontage, but not more than two for each development
Size	48 square feet maximum
Location	15 feet from all lot lines
Height	Six feet maximum
<b>Pylon sign</b>	
Number	One if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage
Size	120 square feet maximum
Location	Minimum 10 feet from the M-6 or US-131 right-of-way and 25 feet from any other property line. Pylon signs are limited to yards fronting M-6 or US-131.
Height	20 feet maximum, with a minimum ground clearance of eight feet between the ground and the bottom of the sign
Other	A pylon sign may be constructed along the M-6 or US-131 frontage in lieu of a ground sign,

<b>Table 12.4 H. Schedule of Permitted Signs by District</b>	
	but not both
<b>Ground sign</b>	
Number	One per street frontage
Size	50 square feet
Location	10 feet from front lot line, 50 feet from all other lot lines
Height	Six feet maximum Eight feet maximum if the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, located within the highway-fronting yard
<b>Wall sign</b>	
Number	Two per tenant per wall that faces a parking area or street.
Size	15 percent of wall area to which it is attached, not exceeding 100 square feet per individual wall sign. If the parcel abuts the M-6 or US-131 right-of-way with at least 100 feet of frontage, total wall sign area on the highway-fronting building elevation shall be limited to 15 percent of the wall area to which they are attached, not exceeding 150 square feet per individual wall sign.
Location	Mounted flat against the wall
<b>All Districts</b>	
<b>Community special event sign</b>	
Number	No limit
Size	32 square feet maximum
Location	On or off the property on which the event will occur; set back at least 15 feet from any side or rear property line and set back from the front property line the same distance as required for a ground sign in the district in which the sign is located
Height	Six feet maximum
Other	The sign shall be installed no more than 10 days prior to the scheduled event and must be removed within 48 hours of the event's conclusion
<b>Construction sign</b>	
Number	One per street frontage, but only one on each street
Size	32 square feet maximum
Location	10 feet from any lot line
Height	10 feet maximum
Other	The sign shall be removed at such time as a certificate of occupancy is issued for the building to which the sign refers or to any building within a development to which the sign refers
<b>Electronic message sign (non-residential uses only)</b>	
Number	One per street frontage
Size	Maximum 40 percent of the area of the sign on which it is located
Location	Incorporated into a wall, ground or pylon sign
Other	<ol style="list-style-type: none"> <li>a. Each individual message shall be stationary and the transition from one message to the next shall be instantaneous. No elements of the display shall move, flash, fade, explode, scroll or contain other such special effects.</li> <li>b. Each message shall be displayed for no less than eight seconds.</li> <li>c. A portable sign shall not be permitted on any premises where a changeable copy signer electronic or manual is in place.</li> </ol>
<b>Property development sign</b>	
Number	One per frontage
Size	32 square feet
Location	15 feet from all property lines
Height	Eight feet maximum
Other	Property development signs shall be removed when 80 percent of the lots or space(s)

<b>Table 12.4 H. Schedule of Permitted Signs by District</b>	
	available have been sold or leased
<b>Temporary sign</b>	
Number	One per street frontage, but only one on each street
Size	32 square feet
Location	Five feet from front lot line
Height	Six feet maximum
Other	Temporary signs may be displayed for a maximum of 21 consecutive days for any single permit period and a maximum of three permit periods may be permitted in a calendar year. The sign shall be removed by the permit holder upon expiration of the permit period.
<b>Billboards (B-2, B-3, D-1 and D-2 Districts only)</b>	
Number	<p>a. One billboard structure with up to two static or trivision billboard sign faces may be established for each billboard structure removed from any location within the Township, in accordance with paragraph c.</p> <p>b. One digital billboard sign face may be established on an existing billboard structure or on a new billboard structure for each three billboard structures removed from any location within the Township, in accordance with paragraph c.</p> <p>c. To encourage a reduction in the number of billboard structures, to promote the replacement of nonconforming billboard structures and billboard sign faces, and to accommodate emerging LED technology, the owner of a lawful billboard structure may be awarded credit for the removal of an existing billboard structure in any zoning district, as stated in this paragraph c.</p> <ol style="list-style-type: none"> <li>1. One credit shall be awarded for each lawfully established billboard structure that is removed. No credit shall be awarded for removal of an unlawful billboard structure.</li> <li>2. Credit shall be awarded when an existing billboard structure is fully removed, regardless of the reason for its removal</li> <li>3. Credits shall be awarded by the Township only if a sign owner or designee provides written notice to the zoning administrator within 60 days of the billboard structure removal. No credit shall be awarded if such notice is not provided within the 60-day period.</li> <li>4. Billboard structure credits shall be transferable between the owner of a billboard structure that has been removed and another person or entity but only if the removing party has given the 60-day removal notice specified in paragraph 3. A true copy of the instrument of transfer, signed by the transferor, shall be furnished to the Township zoning administrator promptly after the transfer. The parties shall comply with such other requirements as may be established by the zoning administrator.</li> <li>5. The zoning administrator shall issue a permit for the erection of a billboard structure meeting the requirements of this ordinance upon obtaining proof of the removal of existing billboard structures in accordance with these provisions.</li> <li>6. No billboard structure shall be erected, installed, placed or constructed in the Township except in compliance with subparagraphs a, b and c, or such of them as apply in the circumstances.</li> </ol>
Size	<p>a. Digital billboard sign face: maximum area of 378 square feet.</p> <p>b. Static or trivision billboard sign face:</p> <ol style="list-style-type: none"> <li>1. Maximum area of 672 square feet for a billboard lawfully established on a land parcel fronting on Highway US-131.</li> <li>2. Maximum area of 672 square feet for a billboard lawfully established on a land parcel fronting on Highway M.6.</li> </ol> <p>c. Measurement of a sign area does not include the billboard structure apron under the billboard sign face, nor any advertising company name and/or logo affixed to this portion of the billboard structure.</p>

Location	<ul style="list-style-type: none"> <li>a. A billboard structure shall be located only on a land parcel with frontage on Highway US-131 or Highway M-6, except that it shall not be located on a land parcel with frontage on an interchange of the Highways or either of them.</li> <li>b. Billboard structures and billboard sign faces shall be set back at least 75 feet from any adjacent street right-of-way line and 10 feet from any other property line, but all parts of the billboard structure and billboard sign face(s) shall be located no further than 150 feet from the nearest street right-of-way line.</li> <li>c. A billboard structure shall be at least 300 feet from the nearest property line of any residential district and the nearest property line of any church, school, historic site, hospital, retirement or nursing home or government building.</li> <li>d. A billboard structure shall be at least 1,000 feet from any other billboard structure on either side of the street or highway, including any billboard structure located outside of the Township, unless a stricter State requirement applies. A maximum of three billboard structures shall be permitted within any linear mile of a street or highway, regardless of the spacing of the billboard structures.</li> </ul>
Height	<p>Maximum of 30 feet above the grade of the ground on which a billboard structure is located or the grade of the abutting street right-of-way, whichever is higher (such maximum height shall not include a billboard sign face extension that complies with this chapter).</p>
Other	<ul style="list-style-type: none"> <li>a. The angle of a V-type billboard sign face configuration shall not exceed 75 degrees.</li> <li>b. A billboard sign face shall be a standard quadrilateral shape with four right angles, such as a square or rectangle, with the bottom edge thereof being level with the street.</li> <li>c. Billboard configurations shall be limited to single-face, V-type or back-to-back configurations. Stacked or staggered-height billboard sign faces are prohibited.</li> <li>d. A billboard sign face shall be perpendicular to, or angled toward, the highway right of way.</li> <li>e. On a billboard structure with two billboard sign faces, no more than one sign face shall be oriented toward the same direction of motor vehicle traffic.</li> <li>f. A billboard sign face extension may project no more than five feet from the top and no more than two feet from either side of the billboard sign face, and no more than one and one half feet from the bottom of the billboard sign face. The total area of a billboard sign face extension shall be not greater than 50 square feet; the area and height of any lawful extension shall not be included in the maximum permitted sign face area or the maximum permitted billboard structure height. A billboard sign face extension shall be temporary only; it shall be removed when the advertising copy on the billboard is changed, and shall not become a permanent modification of the billboard structure. A permit is not required for a billboard sign face extension.</li> <li>g. All billboards (including digital billboards) shall be constructed in such a manner as to withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.</li> </ul>
Digital Billboards	<ul style="list-style-type: none"> <li>a. The following requirements shall apply to all digital billboards <ul style="list-style-type: none"> <li>1. The display shall not emit an illuminative brightness exceeding 300 NITs at any time between one-half hour after sunset until one-half hour before sunrise or 6,500 NITs between one-half hour before sunrise until one-half hour after sunset.</li> <li>2. The illuminative brightness shall not impair the vision or endanger the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle.</li> <li>3. A digital billboard shall not resemble or simulate any warning or danger signal, or any official traffic control device, sign, signal or light.</li> <li>4. A digital billboard shall not be permitted to operate unless it is equipped with: <ul style="list-style-type: none"> <li>i. A default mechanism that shall freeze the sign face in one position or static message if a malfunction occurs; and</li> <li>ii. A mechanism able to automatically adjust the display's illuminative brightness according to ambient light conditions by means of a light detector/photo cell by which the sign's brightness shall be dimmed.</li> </ul> </li> </ul> </li> </ul>

<b>Table 12.4 H. Schedule of Permitted Signs by District</b>	
	<p>5. The owner of a digital billboard shall coordinate with local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.</p> <p>6. The owner of a digital billboard shall provide the Township with contact information for a person who is available to be contacted at any time and who is able to turn off the digital sign face promptly after a malfunction occurs. If, at any time more than 95 percent of the LED display lights malfunction or are no longer working, the owner of the digital billboard shall make repairs to the billboard within 60 days or the billboard sign face shall be promptly removed.</p> <p>7. Each individual message shall be stationary and the transition from one message to the next shall be instantaneous. No elements of the display shall move, flash, fade, explode, scroll or contain other such special effects.</p> <p>8. Each message shall be displayed for not less than eight seconds</p> <p>b. A static billboard may be illuminated, provided such illumination is concentrated on the surface of the sign face and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. A static billboard shall not have flashing or intermittent lights, nor shall the lights rotate or oscillate.</p>

**I. Sign permits.**

1. **Permits required.** A sign permit shall be required for the erection, use, construction or alteration of all signs, except those specifically exempted by *Section 12.4.F*. For purposes of this section alteration shall mean any change to an existing sign including changing the copy to promote, advertise, or identify another use. Alteration shall not mean normal maintenance of a sign nor apply to changeable message signs.
2. **Electrical Signs.** All signs requiring electrical service shall be reviewed for compliance with the applicable electrical code. Approval of signs requiring electrical service shall be noted on or attached to the sign permit.
3. **Issuance of Sign Permit.** The zoning administrator shall issue a sign permit if all provisions of this code and other applicable township regulations are met. A sign authorized by a permit shall be installed or be under construction within six months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon filing of a new application and fee.

**J. Inspection and maintenance.**

1. **Sign inspection.**
  - a. **Responsibility for Compliance.** The owner of any property on which a sign is located is declared to be responsible for the permit, erection, inspection, safety, condition, and removal of a sign.
  - b. **Inspection of New Signs.** All signs for which a permit has been issued shall be inspected by the township building official when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable requirements of all codes.

- c. Inspection Before Enclosure. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the building official when such fastenings are to be installed so that inspection may be completed before enclosure.
  - d. Inspection of Existing Signs. The building official may, at such times as deemed necessary, inspect any sign allowed under this section and, if upon inspection, a sign is found to be unsafe or in a condition that does not comply with all the provisions of this section, the building official shall give notice of that condition to the owner of the sign and cause the necessary repairs or alterations to be made, or require removal of the sign.
2. Sign maintenance.
- a. Maintenance of Signs. All signs for which a permit is required and all structural supports shall:
    - (1) be kept in compliance with the plans and specifications filed and approved for issuance of the construction permit;
    - (2) be kept and maintained in a safe condition, consistent with adopted building and mechanical codes; and
    - (3) at all times conform to all provisions of this section.
  - b. Correction of Defects. If the building official finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the owner of the sign shall make the sign safe and secure by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the building official. Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired within 12 hours of notification.
  - c. Obsolete Signs.
    - (1) Signs which are no longer functional, in disrepair, or are abandoned for more than 60 days, shall be removed, at the expense of the owner of the property on which the sign is located, within 30 days following notice of non-compliance. The owner shall be notified by certified mail.
    - (2) A sign which no longer identifies a use, product, business or entity located on the property, but is otherwise in conformity with the other provisions of this ordinance, may remain in place if the sign face is completely covered or obscured by a blank panel attached within the frame of the sign. In such case, the sign shall be permitted to remain for a period not to exceed 120 days. Following expiration of the 120 days, the sign shall be removed, unless identifying a new use, product, business or entity located on the property.

# Chapter 13 Zoning Board of Appeals

## Section 13.1 Creation and membership

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- A. The Byron Township Zoning Board of Appeals shall perform the duties and exercise the powers as provided in the Zoning Act in such a way that the objectives of this Ordinance shall be observed, public safety and welfare secured and substantial justice done.
- B. **Membership**
  - 1. Board of Appeals membership shall be in accordance with the requirements of the Zoning Act. There shall be five regular members and the first regular member of the Zoning Board of Appeals shall be a member of the Planning Commission. The remaining members shall be selected from the electors of the Township. The members shall be representative of the Township’s population distribution and its various interests.
  - 2. One regular member may be a member of the Township Board, if so appointed; however, an elected officer of the Township shall not serve as the chairperson of the Zoning Board of Appeals.
  - 3. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.
  - 4. The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. The alternate members may be called upon to participate as regular members of the Zoning Board of Appeals if a regular member is absent from or unable to attend a meeting. An alternate member may also be called to serve on a case in which a regular member has abstained for reasons of conflict of interest. An alternate shall serve on the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member.
  - 5. Terms shall be for 3 years, except for members on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

## Section 13.2 Meetings and public hearings

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- A. All Zoning Board of Appeals meetings shall be called by the Chairman and at such times as determined by the Zoning Board of Appeals. All meetings shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question and shall also keep records of its hearings and other official actions.
- B. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and to produce books, papers, files and other pertinent evidence.
- C. Whenever a public hearing before the Zoning Board of Appeals is required, the Township shall provide public notice in accordance with the requirements of the Zoning Act.

## Section 13.3 Jurisdiction and decisions

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- A. The Zoning Board of Appeals shall have the following powers:
1. To hear and decide on all matters referred to it, based on this Zoning Ordinance.
  2. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the zoning administrator or the Planning Commission in the enforcement of this Ordinance.
  3. To approve dimensional variances in circumstances involving a practical difficulty and the other conditions required for the approval of a dimensional variance, as stated in *Section 13.5*.
  4. To interpret the provisions of the Ordinance pertaining to the following:
    - a. The location of a district boundary on the zoning map, if the location of the boundary is unclear because the boundary is not shown to be along a street or property line, or for other reason.
    - b. Carrying out the intent and purpose of the Community Master Plan, as reflected on the Zoning Map, fixing the use districts accompanying and made part of this Ordinance, where street layout actually on the ground varies from the street layout shown on the map.
    - c. To interpret the terms and provisions of the zoning ordinance on appeal from a decision of the zoning administrator under *Section 13.5.B*.
  5. To approve a special exception to permit any of the following:
    - a. The moving of a building under *Section 3.4.A.1* of this Ordinance. Such special exception shall be in the form of a building moving permit, as specified in Article IV of Chapter 10 of the Township Code of Ordinances, and shall be based on the required findings stated therein.
    - b. The expansion of a nonconforming use under the terms of *Section 3.15.A.2* of this Ordinance, if the Zoning Board of Appeals makes all of the following findings:
      - (1) There will be no danger to the safety, health, or welfare of the persons residing in the vicinity;
      - (2) The expansion will be done in such a manner as to safeguard the character of the zone district in which the land, building or structure is located;
      - (3) There are no other conforming structures within 150 feet of the proposed extension (measuring from building line to building line); or, in the case of a proposed expansion of a nonconforming use in land area, the proposed extension shall be at least 200 feet from any conforming structure (measuring from the building line of the conforming structure to the nearest point of the area which will compose the extended portion of the nonconforming use); and
      - (4) There is a reasonable need for the extension of the nonconforming use.
    - c. A change in the use of a nonconforming building to another nonconforming use of equal or lesser nonconformity, under the terms of *Section 3.15.E* of this Ordinance, if the Zoning Board of Appeals makes all of the following findings:
      - (1) The other nonconforming use of equal or lesser nonconformity would not adversely affect the desirability of the adjacent conforming uses.



- (2) The approval of the other nonconforming use of equal or lesser nonconformity would not result in serious adverse effects arising from motor vehicle traffic, hours of operation, noise, odor and like impacts upon adjacent and nearby lands.

## B. Decisions

1. The concurring vote of a majority of the Zoning Board of Appeals membership shall be necessary to reverse any order, requirement, decision or determination by the zoning administrator or other administrative body, or to decide in favor of the applicant on any matter upon which it is authorized by this Ordinance to render a decision.
2. The decision of the Zoning Board of Appeals shall become final upon certification of the decision in writing, signed by the Chair of the Zoning Board of Appeals, or the approval of the minutes for the meeting at which the decision was reached, whichever occurs first.
3. A zoning compliance permit or building permit for a project that is reliant on the decision of the Zoning Board of Appeals shall not be issued until the decision is final.

## Section 13.4 Administrative appeals

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- A. An appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation or by any officer, Department, Board or Bureau affected by the requirements of this Ordinance, or a decision of the zoning administrator or other official or board charged with administering this Ordinance.
- B. An appeal from any decision or action shall be filed no later than 30 calendar days after the decision or action being appealed. Where an appeal has been filed, the zoning administrator shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action being appealed was made.
- C. An appeal shall place on hold all proceedings to implement the action being appealed, unless the Zoning Administrator certifies to the Zoning Board of Appeals, after notice of the appeal has been filed, that given the facts, a stay of executing the action would, in the opinion of the zoning administrator, cause imminent peril to life or property. In such cases the proceedings shall not be placed on hold, except by a restraining order, which may be granted by a court of record.
- D. In exercising this power, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or a determination being appealed and may make an order, requirement, decision or determination as it should be made. The Zoning Board of Appeals may reverse an order of an administrative official or the Planning Commission only if it finds that the action or decision appealed meets one or more of the following requirements:
  1. Was arbitrary or capricious.
  2. Was based on an erroneous finding of a material fact.
  3. Constituted an abuse of discretion.
  4. Was based on erroneous interpretation of the Zoning Ordinance or zoning law.

## Section 13.5 Dimensional variances

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- A. A variance of a provision of this Ordinance may be granted if there are practical difficulties as a result of any of the following dimensional characteristics of the land, buildings or structures, and if the standards of subsection B of this Section are satisfied:
  1. The exceptional narrowness of the width or depth of a lot or parcel, or its unusual shape.

2. Exceptional topographic features of the lot or parcel, including but not limited to elevations in the land; the presence of a stream, lake, wetland, natural drainage course or other body of water or water feature; or other exceptional physical condition of the land.
  3. The extraordinary location of an existing or proposed building or structure on the lot or parcel, resulting in practical difficulties in constructing a building or structure or in improving, restoring or substantially repairing an existing building or structure.
  4. Other exceptional or extraordinary dimensional characteristic or shortcoming of the land, buildings or structures.
- B. A variance shall not be granted unless the Zoning Board of Appeals determines by majority vote of its members, and on the basis of reasonable evidence in the record of its proceedings, that all of the following facts and circumstances exist and apply as to the requested relief:
1. Compliance with the applicable provisions of this Ordinance would involve practical difficulties.
  2. There are unusual circumstances or conditions that apply to the land, buildings or structures that do not apply in the same manner or to the same extent to other land, buildings or structures in the same zoning district.
  3. The approval of the proposed variance would not result in serious adverse effects on adjacent or nearby lands or uses.
  4. The approval of the proposed variance would implement the goal of the zoning ordinance to grant relief in a genuine case of practical difficulties; would not diminish the public health or safety; and would provide substantial justice to the applicant by relieving practical difficulties involving the land, buildings or structures.

### **Section 13.6            Conditions of approval**

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The Zoning Board of Appeals may impose conditions upon an affirmative decision. These may include conditions necessary to ensure 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 land uses and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall accomplish all the following:

- A. Be designed to protect, as applicable, natural resources, the health, safety and welfare, and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
- B. Be related to a valid exercise of police powers and purposes that are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
- D. The conditions imposed shall be recorded in the approval action and shall remain unchanged, except upon the mutual consent of the Township and the landowner. The Township shall maintain a record of any changes granted in conditions.

### Section 13.7 Rehearing and reapplication

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- A. **Rehearing.** A rehearing on an application denied by the Zoning Board of Appeals shall not be considered, except upon the grounds of newly discovered evidence or a falsehood previously relied upon that is discovered to be valid by the Zoning Board of Appeals. A rehearing shall be processed in the same manner as the original application, including payment of the required fee.
- B. **Reapplication.** An application for a variance, interpretation or appeal that has been denied, wholly or in part, by the Zoning Board of Appeals shall not be resubmitted for a period of one year from the date of the last denial, except on proof of changed conditions, found by the Zoning Board of Appeals to be valid.

### Section 13.8 Limitation on Powers

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- A. **Use variances not permitted.** The Zoning Board of Appeals shall not have the power to permit any use in a district in which it is not permitted.
- B. **Special land uses.** The Zoning Board of Appeals may grant dimensional or other similar variances related to the layout and development of a special land use. However, the Zoning Board of Appeals shall not have the power to reverse or modify the Planning Commission's decision to approve or deny a special land use, nor grant variances to any conditions placed on special land use approval.
- C. **Planned unit developments.** The Zoning Board of Appeals shall not have the authority to reverse a decision of the Township Board on a PUD, change any conditions placed on a PUD by the Planning Commission or Township Board, or grant variances to PUD regulations.
- D. **Other limitations.** Nothing in this Zoning Ordinance shall be construed to suggest that the Zoning Board of Appeals has been granted the power to alter or change the Zoning Ordinance or the official Zoning Map.

### Section 13.9 Official record; findings of fact

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- A. Minutes shall be kept of each meeting. The Zoning Board of Appeals shall record all relevant findings, conditions, facts and other relevant factors, including the vote of each member upon each question and all of its official actions. To this end, the Zoning Board of Appeals shall prepare an official record for all appeals and shall base its decision on this record. The official record shall, at a minimum, include the following items:
  - 1. The relevant administrative records and orders issued relating to the appeal, variance or interpretation;
  - 2. The notice of the appeal, variance, or interpretation, if required;
  - 3. Documents, exhibits, photographs or written reports, as may be submitted to the Zoning Board of Appeals for its consideration.
  - 4. The findings of the Zoning Board of Appeals, stating the facts of the application, the decision, any conditions of the decision and the reasons for reaching such a decision, including any applicable standards of review.
- B. A decision of the Zoning Board of Appeals shall also be certified in writing, either by a certification denoting the decision for a specific request, signed by the Chair, or by approval, by majority vote of the Zoning Board of Appeals, of the official minutes of the meeting at which the decision was made.

**Section 13.10**            **Miscellaneous**

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- A. The order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for one year. During this time a building permit for the approved erection or alteration shall be secured, construction shall be started and shall proceed to completion in accordance with the terms of the permit.
  
- B. The decision of the Zoning Board of Appeals shall be final. Appeals from decisions of the Zoning Board of Appeals shall be to the Circuit Court, as provided by the Zoning Act.

# Chapter 14 Administration and Enforcement

## Section 14.1 Administration and Enforcement

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- A. A zoning administrator, shall be designated by the Township Board to administer and enforce this Ordinance. He/she may be assisted by other persons, as the Township Board may direct.
- B. If the zoning administrator finds that any provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering an action necessary to correct it. The zoning administrator shall order the discontinuance of illegal land uses, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance, or to prevent violation of its provisions
- C. In carrying out the administration and enforcement duties of this Ordinance, the zoning administrator shall also act in accordance with the requirements of any other Township regulations regarding code enforcement.

## Section 14.2 Zoning Compliance

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The zoning administrator shall have the authority to determine zoning compliance in accordance with the requirements of this Ordinance.

- A. It shall be unlawful to change the type of land use, or to change the type of use or type of occupancy of any building, or to extend any use on any lot, on which there is a nonconforming use, until the zoning administrator has determined the change to be in compliance with the applicable provisions of this Ordinance.
- B. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building or parking area, or to commence the moving or alteration of any structure, including accessory buildings, exceeding 200 square feet in gross ground floor area, unless the plans, specifications and intended use of such a structure conforms in all respects to the provisions of this Ordinance. The zoning administrator or, in the case of a single or two family structure or a related accessory structure, the building official, shall determine if the project complies with this Ordinance according to this section.
  - 1. It shall be unlawful to approve any plans or determine zoning compliance for any excavation or construction or use until the zoning administrator has inspected the plans in detail and found them in compliance with this Ordinance.
  - 2. Issuance of a zoning compliance determination shall not be construed as waiving any provision of this Ordinance.
  - 3. The zoning administrator shall not refuse to issue a zoning compliance determination when the applicant complies with conditions imposed by this Ordinance and all other applicable Township, County and State regulations. Violations of private contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause to refuse to issue a determination.

4. The zoning administrator may refuse to issue a zoning compliance determination where there are unresolved or outstanding violations to any Township ordinance, including this Zoning Ordinance, applicable to the subject property. Upon resolution of prior unresolved or outstanding violations, the zoning administrator shall issue the determination of zoning compliance in accordance with subparagraph c, above.
  5. When the zoning administrator receives an application that requires Planning Commission, Township Board or Zoning Board of Appeals approvals, the zoning administrator shall so inform the applicant.
  6. A zoning compliance determination shall not be made until all applicable fees, charges and expenses have been paid in full.
  7. In the case of a single or two family dwelling or an accessory structure on the same lot as a single or two family dwelling, the building official may determine zoning compliance during review of a building permit.
- C. Zoning compliance review shall not be required for ordinary repairs or maintenance to one- or two-family residential dwellings or any related accessory structure, including but not limited to roofing, siding and interior work, provided that such construction does not increase the gross ground floor area of the building by more than 100 square feet and/or does not change the use of the structure. In addition, zoning compliance review shall not be required for the construction of a child's play structure in a side or rear yard.
- D. A structure that does not require a zoning compliance review shall still comply with the requirements of this Ordinance.

### **Section 14.3                      Zoning Administrator; Additional Duties**

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- A. The zoning administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in the Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
- B. The zoning administrator shall have the authority to review any and all plans, applications and requests prior to such plans, applications, and requests being heard by the Planning Commission to determine completeness and conformance with the requirements of this Ordinance.
- C. The zoning administrator shall have the authority to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of the Ordinance.
- D. The zoning administrator shall not make changes to this Ordinance or to vary the terms of this Ordinance in carrying out duties.
- E. The zoning administrator shall require every application for excavation, construction, moving, alteration or change in type of use or type of occupancy, be accompanied by a site plan or sketch plan prepared in accordance with specifications of *Chapter 11*.
- F. If a proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this ordinance and in conformance with the provisions of the building code, the zoning administrator shall determine that the project is in compliance with this Ordinance, provided all other requirements are satisfied. If the zoning administrator determines that the project or use is not in compliance, the reasons for the rejection shall be stated in writing.

#### **Section 14.4 Fees, Charges and Expenses Established by the Township**

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- A. The Township Board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for zoning compliance reviews, appeals, Special Land Uses, variances, site plan reviews, rezoning applications, planned unit developments and other matters pertaining to this Ordinance. The schedule of fees shall be available in the office of the zoning administrator and may be amended only by the Township Board. In the case of a permit or variance request, where work or improvements have been completed prior to legal issuance of permits, the Township Board may require a higher fee.
- B. An appropriate fee established by the Township Board shall accompany any application. Additionally, a separate deposit may be collected from the applicant, as determined by the Township Board, and used to reimburse another party retained by the Township to provide expert consultation and advice including, but not limited to, legal, planning and engineering professionals regarding an application. The amount of the deposit shall be based on a reasonable estimate to provide such services; however, the Township Board may, by resolution, adopt a minimum deposit. Any unused portions of this fee shall be returned to the applicant after the Township has paid all costs for consultant services.

#### **Section 14.5 Interpretation**

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- A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or Ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.
- B. The zoning administrator shall interpret the terms, requirements and processes of this Ordinance. The interpretation of the text shall be narrow and based on common understanding of terms. Any determination of the zoning administrator may be appealed to the Zoning Board of Appeals, according to *Section 13.4*.

#### **Section 14.6 Performance Guarantee**

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In the interest of insuring compliance with this Zoning Ordinance and protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Township Board, Planning Commission or Zoning Board of Appeals, as a condition of approval of the proposed use, may require an applicant to deposit a performance guarantee to insure the completion of improvements connected with the proposed use required by this Ordinance. These may include, but are not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- A. Performance guarantee shall mean a cash deposit, irrevocable letter of credit, performance bond or certified check in the amount of the estimated cost of the improvements to be made as determined by the applicant and confirmed and verified by a representative of the Township.
- B. Where the Township requires a performance guarantee, it shall be deposited with the Township prior to the issuance of a zoning compliance permit by the Township for the development and use of the land. Upon deposit of the performance guarantee, the Township shall issue the appropriate building permit and the Township Clerk shall retain the deposit. If the deposit is in the form of cash

or certified check, then it shall be transferred to the Township Treasurer for deposit in an interest bearing account.

- C. Where a performance guarantee is required by the Planning Commission as a condition of approval, the Planning Commission shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period shall run from the date of the issuance of the building permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant amounts of money in reasonable proportions to the ratio of the work completed on the improvements by the applicant and as confirmed by the zoning administrator. However, a minimum of 10 percent shall be held back on each element until satisfactory completion of the entire project. The zoning administrator may solicit the opinion of a civil engineer licensed in the State of Michigan to determine the value of the work completed. The Township shall retain a portion of the guarantee after granting final approval to ensure final pavement wearing course is complete and that landscaping is established.
- E. Upon the satisfactory completion, as determined by the Township, of the improvement for which the performance guarantee was required, the Clerk shall notify the Treasurer of the Township to return to the applicant the performance guarantee deposited. The Township may retain up to 10 percent to cover any administrative or consultant costs directly associated with review and inspection of the improvements.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited to complete improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements.
- G. In the event the applicant defaults in making the improvements and the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay to the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited.
- H. **Sidewalk deferral.**
  - 1. For developments including public sidewalks, the Township Board in its discretion may accept or require payment in advance by the developer or property owner to the Township, in lieu of other provisions for financial security, if the developer requests deferral of construction of some or all of the required public sidewalks.
  - 2. If payment in lieu of sidewalk construction is approved by the Township Board, the developer and property owners are relieved of further responsibility for the cost of installation of public sidewalks, and shall not be responsible for additional construction costs nor entitled to a refund of any amounts not so used.
  - 3. Amounts collected by the Township for installation of sidewalks for a particular project shall be accounted for separately, and shall be used only for construction of sidewalks for that project. Once the sidewalk is completed, any excess may be used for other public purposes as determined by the Township Board.
  - 4. In determining whether to accept payment in lieu of sidewalk construction, the Township Board shall consider relevant factors, including:
    - a. the impact of deferral of construction on pedestrian safety and ultimate completion of a sidewalk network to serve the area;



- b. probable length of time before installation of a sidewalk network in the vicinity; and
  - c. the estimated cost to install the sidewalk and risk of potential cost increases.
5. The amount of the payment shall be based upon the best estimate of construction costs by the Township Engineer, taking in consideration likely inflation between the time of deposit and the time of expected construction.

## **Section 14.7            Amendments and Rezoning**

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- A. Amendment to this Ordinance may be initiated by the Township Board on its own motion. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance through the zoning administrator and also recommend Ordinance amendments to the Township Board for adoption. Notwithstanding the above, a request for rezoning may be filed by a person, firm or corporation, in which case the applicant shall show proof of ownership or other demonstrable interest in the property in question.
- B. The following guidelines shall be considered by the Planning Commission and Township Board, in consideration of amendments to the Zoning Ordinance:
1. Text amendment
    - a. The proposed text amendment would clarify the intent of the Ordinance.
    - b. The proposed text amendment would correct an error in the Ordinance.
    - c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan, or effect the implementation of the Master Plan.
    - d. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
    - e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
    - f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
    - g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
    - h. As applicable, the proposed change shall be consistent with the Township's ability to provide adequate public facilities and services.
    - i. The proposed change shall be consistent with the Township's desire to protect the public health, safety, and welfare of the community.
  2. Map amendment (Rezoning).
    - a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Byron Township Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, consistency with recent development trends in the area.
    - b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land

suitability, impacts on the community, density, potential influence on property values and traffic impacts.

- c. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.
- d. Other factors deemed appropriate by the Planning Commission.

**C. Amendment Procedure.**

1. All petitions for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator, who will forward them to the Planning Commission upon a determination that the application is complete.
2. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
  - a. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
  - b. The nature and effect of the proposed amendment.
  - c. If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the township, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting properties, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.
  - d. Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
  - e. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
3. Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one public hearing, notice of which shall be given in accordance with the requirements of the Zoning Act. All notices of public hearing shall state the time, date, place and purpose of the public hearing.
4. The Planning Commission shall then refer the proposed amendment to the Township Board along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefore .
5. The Township Board, upon receipt of the recommendation of the Planning Commission, may, at its discretion, hold a public hearing on the amendment, after publication and notice in accordance with the requirements of the Zoning Act. In the case of a PUD, the Township Board shall conduct a public hearing, as specified in *Section 7.5.C.5*.
6. The Township Board may modify and subsequently adopt the proposed amendment, or adopt it as presented by the Planning Commission. The Township Board may refer any proposed modifications back to the Planning Commission for additional comment.
7. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements, shall be filed with the Township Clerk, and one notice of Ordinance adoption shall be published accordance with the requirements of the Zoning Act.

8. Within seven days after publication, the amendment to the zoning ordinance shall be filed in the Official Ordinance Book of the Township with a certification of the Township Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, the change shall be made on the map within 30 days after the effective date of the amendment.

### **Section 14.8            Conditional Rezoning**

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An owner of land may voluntarily offer in writing and the Township, through the rezoning process specified in *Section 14.7*, may approve certain use and development restrictions on the land as a condition of rezoning. The conditions pertaining to conditional rezoning, as stated in the Michigan Zoning Enabling Act, shall be met.

### **Section 14.9            Revocation of Approvals**

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- A. Any zoning compliance approval, special land use or site plan approval may be revoked after determination that one (1) or more of the following circumstances exist:
  1. A material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency.
  2. There has been a material departure from the commitments made and the requirements of an approved plan.
  3. Material and substantial pollution, impairment or destruction of the environment, or to another legally protected public interest, would occur if the project were to be constructed as previously approved.
  4. Failure to perform, unless due to actions or circumstances beyond the applicant's control.
- B. Proper notice shall be given prior to revocation of the approval. The Zoning Administrator may revoke zoning compliance permits. If the Planning Commission approved a site plan, they shall vote on the revocation. The Planning Commission shall hold a public hearing on revocation of any approval that was originally approved or recommended by the Planning Commission after a public hearing. In addition, the Planning Commission may conduct a public hearing regarding the revocation of a site plan; written notice of which shall be sent by first-class U.S. mail to the applicant and the property owner at least 15 days prior to the date of the hearing.

### **Section 14.10          Public Hearings**

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In instances where a public hearing before the Planning Commission or the Zoning Board of Appeals is required or is optional under this Ordinance and/or the Zoning Act, publication and dissemination of the written notice of the public hearing shall conform to the requirements of the Zoning Act.

### **Section 14.11          Enforcement**

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- A. Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the building inspector, zoning administrator, zoning board of appeals, planning commission or the township board or its designee, issued in pursuance of this Ordinance shall be in violation of this ordinance. Any such violation is hereby declared to be a nuisance, per se.
- B. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for

subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, and expenses incurred by the Township enforcing the Ordinance. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which that person admitted responsibility or was adjudicated to be responsible.

- C. Each day during which any violation continues shall be deemed a separate offense.
- D. in addition to the foregoing provisions, the Township may institute any other appropriate action or proceedings to prevent, enjoin, abate or remove any violation of this Ordinance or to otherwise enforce this Ordinance. The rights and remedies provided herein are cumulative and are in addition to all other remedies provided by law.

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### **Section 14.12 Stop Work Order**

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- A. Upon notice from the Zoning Administrator or Township Building Inspector, or the Township Ordinance Enforcement Officer acting on behalf of the Township, that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner’s agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.
- B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.

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### **Section 14.13 Severability Clause**

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Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

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### **Section 14.14 Repeal of a Prior Ordinance; Pending Zoning Applications**

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- A. The Zoning Ordinance previously adopted by the Township and all amendments thereto, are hereby repealed. The repeal of the prior Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.
- B. Any complete applications for, but not limited to, the rezoning of land, site plan approval, special land use, temporary special use or variance, submitted and pending prior to July 15, 2013, under the previously adopted Zoning Ordinance, shall be considered and decided under applicable provisions of such previously adopted Zoning Ordinance, subject to the requirements of subsections 1 and 2 hereof. Any applications filed prior to July 15, 2013 which do not comply with subsections 1 and 2 shall be treated for all purposes as submitted under this Ordinance.
  - 1. The applicant shall commence construction or other work in accordance with the Township zoning approval not later than one year after the date of such approval; and
  - 2. The applicant, after commencing such work, shall proceed diligently and without undue delay to its completion.
- C. Any land use, or any part thereof, approved under the terms of Section 14.14.B., shall be a lawful

non-conforming use under the applicable provisions of this Ordinance to the extent that it does not comply herewith, and in accordance with Section 3.15 hereof.

**Section 14.15            Effective Date**

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- A. The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven days after publication of a “Notice of Ordinance Adoption” in a newspaper circulating within Byron Township. Publication shall be preceded by a public hearing and by approval of the Byron Township Board, in that order.
- B. This Zoning Ordinance shall become effective on the 15th day of July, 2013.

I, Joel Hondorp, the duly elected clerk for Byron Township, do hereby certify that the foregoing zoning ordinance was duly adopted at a regular meeting of the Byron Township Board on June 10, 2013.

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